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RESPECTING

MASTERS AND SERVANTS;
ARTICLED CLERKS, APPRENTICES,
JOURNEYMEN AND MANUFACTURERS,

COMPRISING

As well the LAWS respecting COMBINATIONS amongst
Workmen, as all other Matters relative to Masters
and their Servants.

Laid down in a *plain and easy* manner; and in which all *technical*
Terms of Law are familiarly explained.

Collected and digested from the several
REPORTS and other BOOKS of AUTHORITY,

Up to the present
EASTER TERM, 1795.

ALSO

A complete Abstract of the late Act relative to the Admission of
ARTICLED CLERKS as practising SOLICITORS and ATTORNEYS in his
Majesty's Courts at WESTMINSTER, and the Courts of the Great Sessions
in WALES.

TOGETHER WITH

AN APPENDIX OF PRECEDENTS;

Comprising a great Variety of the most approved Forms of
ARTICLES and INDENTURES of CLERKSHIP and AP-
PRENTICESHIP, AGREEMENTS, ASSIGNMENTS,
and other Instruments relating to the above Subject.

The Whole interspersed with NOTES and REFERENCES,
adapted to the Use of the Profession.

BY THE AUTHOR OF THE
LAWS RESPECTING LANDLORDS AND TENANTS,
AND THE LAW OF WILLS.

James Barry Bird

L O N D O N :

Printed for W. CLARKE and SON, Portugal-Street, Lincoln's-Inn.
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IN surveying the different parts of our Legal Jurisprudence, with a view to the completion of our intended Volume, the provisions which have been made respecting MASTERS and SERVANTS appeared to us to furnish a relation sufficiently extensive and important to claim our regard; we have, therefore, and we trust, not improperly, assigned it a place in the following pages: the object of which is to enquire into the general connection which subsists between *Masters* and *Servants*, in the more usual and colloquial sense of those words, viz. *Menial* or *Domestic Servants*, *Apprentices*, *Journeyman*, *Workmen* and *Labourers*. Of these we shall treat in the order we have here mentioned them, and then subjoin an Appendix of such useful Forms and Precedents as are applicable to the subject of our Treatise, which we hope will meet with the approbation of those for whom it is designed.

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An Explanation of the Contractions made use of in this Treatise.

Amb.	Ambler's Reports.	Hale P. C.	Hale's Pleas of the Crown.
And.	Anderson's Reports.	Hob.	Hobart's Reports.
Atk.	Atkyn's Reports.	Keb.	Keble's Reports.
Bac. Ab.	Bacon's Abridgment.	Leo.	Leonard's Reports.
Black. Com.	Blackstone's Commentaries.	Lev.	Levinz's Reports.
Black. Rep.	Blackstone's Reports	March.	March's Reports.
Brow. Ch. Rep.	Brown's Reports in Chancery	Mod.	Modern Reports.
Bull.	Bullstrode's Reports.	Moor.	Moor's Reports.
Bur.	Burrow's Reports.	Ow.	Owen's Reports.
Cart.	Carter's Reports.	P.	Page.
Carth.	Carthew's Reports.	Flow.	Flowden's Commentaries.
Ca. Temp. Holt	Cases in the time of Chief Justice Holt.	Peere Will.	Peere Williams's Reports.
Ch. Rep.	Chancery Reports in the time of Car. I.	Préc. Chan.	Precedents in Chancery.
Co. Lit.	Coke's Commentary upon Littleton's Tenures	Raym.	Lord Raymond's Reports.
Com. Rep.	Comyn's Reports.	Rep.	Reports.
Com. P.	Common Pleas.	Roll. Ab.	Rolle's Abridgment.
Comb.	Comberbach's Reports.	Salk.	Salkeld's Reports.
Cowp.	Cowper's Reports.	Seff. Ca.	Sessions Cases
Cro. Eliz.	Croke's Reports in the time of Q. Elizabeth.	Sid.	Siderfin's Reports.
Cro. Car.	D ^r in the time of King Charles	Show.	Showers' Reports.
Cro. Jac.	D ^r in the time of King James.	Show. Par. Ca.	Showers' Parliament Cases.
Doug.	Douglas's Reports.	Stra.	Strange's Reports.
Dy.	Dyer's Reports.	Sty.	Styles's Reports.
Eq. Ca. Abr.	Equity Cases abridged.	Term Rep.	Term Reports in the King's Bench, by Durnford and East.
Finch.	Finch's Law.	Vaugh.	Vaughan's Reports.
Fitz. N. Brev.	Fitzherbert's Natura Brevium.	Vent.	Ventris's Reports.
Gilb. Rep.	Gilbert's Reports.	Vern.	Vernon's Reports.
Gouldsb.	Gouldsborough's Reports	Vez.	Vezey's Reports.
Godolph.	Godolphin.	Vid.	See.
Haw. P. C.	Hawkin's Pleas of the Crown.	Vin. Abr.	Viner's Abridgment.
		Will. Just.	Williams' Justice of the Peace.
		Will.	Wilson's Reports.
		Wood.	Woodeson's View of the Law.

THE
L A W S
OF
MASTERS AND SERVANTS.

CHAP. I.

OF DOMESTIC, USUALLY STILED
MENIAL SERVANTS.

MENIAL servants are so called, not as a term of Menial servants: degradation, but from their living *intra mania*, i. e. within the house or walls of the master.

In considering the law relating to this species of servants, we shall enquire

I. Concerning the hiring; and the departure from service.

II. The interest a master has in the time and attendance of his servant; and the authority he has over him.

III. The acts of the servants for which the master is answerable.

IV. The acts for which servants are answerable to their masters in a civil action.

V. The acts for which a criminal prosecution will lie against a servant in regard to the interest of his master, and

VI. The duty on male servants, as imposed by act of parliament.

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The LAWS of

I. Concerning the Hiring of Servants, and their Departure from Service.

Hiring.

The relation between a master and his menial, or domestic servant, arises upon the contract between them, usually called the hiring, this may be made as it may also be dissolved, either by a written agreement, or a verbal declaration.

If the hiring of a servant be general, without any particular time specified, the law will construe it to be a hiring for a year certain (a), which it does upon a principle of natural equity, that the servant shall continue with and be maintained by the master, through all the revolutions of the seasons, as well when there is work to be done as when there is not; though it may be made by express agreement, to determine at a sooner, or last for a longer period, at the pleasure of the parties. *Co. Lit.* 42. *Noy Max.* 108.

And it has been held that where a servant is hired for one year certain, and so from year to year, as long as both parties shall agree, and the servant enter upon a second year, he must serve out that year, and is but a servant at will after the expiration of the first year. *2 Keb.* 16.

Departure from service.

And by stat. 5 Eliz. c. 4. (b) after a servant is hired he cannot leave his master (c), nor can his master discharge him either before or at the end of the term of hiring, without giving a quarter of a year's previous warning, unless for some cause which shall be thought sufficient, and be allowed by a justice of the peace, on pain that the master forfeit 40s. and the servant be imprisoned, unless they part by mutual consent, or at the time of entering into the

(a) And if a servant depart within the year, he shall not be entitled to his wages. *Noy Max.* 108.

(b) This statute relates more particularly to artificers and servants of husbandry, but it is imagined that it may be well construed to give justices a general jurisdiction over servants of every description, and such jurisdiction is in fact exercised by them.

(c) If a servant refuse to do his master's business, it is in law a departure from his service, though he still continue under his master's roof. *Dalh. Just.* 187.

contract

contract agreed that some other warning should be given
(a). 1 *Black. Com.* 425.

And if a woman servant marry she must nevertheless serve out her term, and her husband cannot take her out of her master's service. *Dalt. Just.* 58.

Nor can a master discharge his servant within the year, or abate his wages, on account of any hurt, or illness, by which he may be disabled from doing his usual business. *Illness of servants.*

Wood Inst. 52.

And by the aforesaid statute of 5 Eliz. c. 4. if a servant maliciously assault or make affray on his master, or mistress, or other who hath the charge or oversight of him, he shall on conviction before two justices, or the mayor, or other head officer of the place, be imprisoned for one year, or less, at the discretion of the justices, or receive such other punishment as the offence may require. *Misbehaviour of servants.*

We shall now consider such incidents to the relation between master and servant, as may affect other persons as well as themselves; in doing which, we shall in this place confine ourselves to those acts which are more likely to occur between the master and his menial or domestic servant, than those of any other description, though they will in truth, as we shall see hereafter, equally apply to those of the latter as of the former denomination. *Observation.*

II. *As to the Interest a Master has in the Time and Attendance of his Servant; and the Authority he has over him.*

First, a master may justify assaulting another in defence of his servant, as a servant also may in defence of his master; the master because he has an interest in his servant, not to be deprived of his service; the servant, as it is part of his duty for which he receives his wages to stand by and defend his master. 2 *Roll Abr.* 546. 1 *Black Com.* 429. *The interest a master has in his servant.*

(a) But if a servant be guilty of incontinence, or any other moral infamy, whilst in his master's service, it has been held that the master may discharge him without application to a justice. *Cald.* 11. 14. 134. and so if he be taken into custody for any offence, and legally detained, so that he is prevented from completing his service, the master is authorized to discharge him. *Ibid.* 129.

So may a master maintain an action against another for beating or maiming his servant (a). 9 Co. 113.

And if a surgeon in consideration of a sum of money, undertake to cure a servant of a hurt, &c. and by his unskilfulness he make the servant worse, by which the master lose his service, an action in the case will lie against him.

1 Roll. Abr. 98. 2 Bulst. 332.

Also a master may assist his servant in supporting the expence of any action at law against a stranger, whereas in general it is an offence against public justice to encourage suits and animosities by such assistance. 1 Roll. Abr. 115.

And if a man hire or retain my servant whilst in my service, and the servant depart from me, and serve the other, I may have an action for damages against both the new master and the servant, or either of them, unless the master was ignorant of his being in my service; but if he refuse to restore him after information and demand, the action is still maintainable (b). Fitzh. Nat. Brav. 167. Hob. 189. Moor. 187. Cowp. 54.

And so if, without any inticement, a servant leave his master without just cause, an action will lie against another who retains him with a knowledge of such departure. 1 Salk. 380. 6 Mod. 99. 182. 289.

The reason and foundation upon which all this doctrine is built, Sir W. Blackstone observes, 1 Com. 429, seems to be the property which every man has in his domestics, acquired by the contract of hiring, and purchased by giving them wages.

The power a master has over his servant,

A master may correct and punish his servant in a reasonable manner, for abusive language, neglect of duty, or the like (c). And if an action of assault be brought against

(a) But in such case he must assign as a special reason for so doing, his own damage by the loss of his service, and his loss must be proved on the trial. 1 Black. Com. 429.

(b) It is said, 1 Salk. 380. that for actually taking away a man from another's service, an action of trespass will lie, but that if he be only inticed away, it must be an action on the case.

(c) This and the following positions relative to the authority of a master over his servant, are undoubtedly law when applied to servants under the him

him for it, and it appear in evidence that the punishment was no other than moderate and reasonable, he will be justified (a). 1 *Sid.* 175.

But as such correction must be moderate the master cannot justify wounding his servant. 2 *Inst.* 316.

And it has also been held that though a master may chastise his servant himself, he cannot delegate that power to another. 9 *Co.* 76. 2 *Mod.* 167.

Relative to the authority which a master has over his servant, this distinction is held, that if he design, and use only moderate correction to his servant, it is not murder, nor even manslaughter, though the servant happen to die in consequence. 1 *Hale*, *Pl. C.* 452. But if the master design an immoderate chastisement, either in respect of the measure, the manner, or the instrument, and the servant die, it will be murder, if done with deliberation and forethought, and manslaughter if passionately and without deliberation. *Ibid* 454. 1 *Haw. Pl. C.* 73. 5 *Mod.* 287.

III. *As to the Acts of the Servant, for which the Master is answerable.*

It is a rule of law, that when a man commands another either expressly, or by implication, to do any act, he shall be considered as having done it himself.

As to the acts of the servant, for which the master is answerable.

If, therefore, a servant commit an act of trespass by command, or encouragement of his master, the master will be answerable (b). 1 *Black Com.* 429.

So if the servant of an innkeeper rob his master's guest, the master is bound to make good the loss, for as there is a confidence reposed in his providing honest servants, his

age of 21 years, but *Quare*, whether a master may beat a servant of full age, and see *Lamb.* 127. 1 *Black. Rep.* 428.

(a) It is said in this case, that the master in his justification must alledge the hiring, the place where, and the business, these being matters issuable.

(b) But in this case the servant himself is not excused, as he is bound to obey his master only in such things as are honest and lawful.

negligence

negligence in this respect is considered as an implied consent to the robbery (*a*). *Noy Max.* 109.

So also if the drawer or waiter at an inn sell a man bad wine by which his health is impaired, an action will lie against the master; for though he might not expressly order the servant to sell it to that person in particular, yet his permitting him to sell it at all, to any body, is deemed an implied general command. *1 Roll. Abr.* 95. *1 Black. Com.* 430.

In like manner, if a servant be frequently permitted to do a thing by the tacit consent of the master, the master will be liable, as such permission is equivalent to a general command.

If therefore I pay money to the servant of a banker, and he embezzle it, the banker is answerable, but otherwise, if I pay it to the servant of a physician, whose proper business is not to receive money for his master. *1 Black. Com.* 430.

So if I usually send my servant upon trust with my tradesmen, and he take goods in my name, upon his own account, I must pay for them (*b*); and so, likewise, it would be were I to send him sometimes on trust, and sometimes with ready money, for it is not possible for the tradesman to know when he comes by my order, and when by his own authority, or when with, and when without the money. *1 Show.* 95. *Noy Max.* 111.

But if I usually deal with my tradesmen myself, or constantly pay him ready money, I am not chargeable with what my servant may take up in my name; for in this case there is not, as in the other, any implied order to trust him. *Dr. & Stud. c.* 42.

(*a*) The same is also law, and on a like principle of negligence in the host, if the property of his guest be stolen by any other person than his servant, unless it be done by the servant or companion of the guest himself. *8 Co.* 33.

(*b*) And it is the same in respect of a wife, relation, or other person, who has been used to act for another, they being deemed in respect of those individual transactions, as the servants of their employers; and were it not so, no mutual intercourse could subsist between man and man with any tolerable convenience.

Or

MASTERS *and* SERVANTS.

7

Or if I forbid my tradesmen to trust my servant on my score, and he buys upon credit, I am not liable. 1 *Brownl.* 64.

And by transacting affairs for his master, a servant derives a general authority and credit which cannot be determined for a time by any particular orders or instructions, to which none but the master and servant are privy; for if that doctrine were to prevail, no one could deal with safety with any but the master himself, which would be extremely detrimental to commerce and to general convenience.

Therefore the act of a servant, though out of place, was held to be binding upon the master by reason of the former credit given him on his master's account, it not being known to the party trusting that he was discharged. 3 *Bac. Abr.* 561.

The master is also answerable for any injury arising by the fault or neglect of his servant when executing his master's business; as, where a gentleman's servant brought a coach and two ungovernable horses of his master's into Lincoln's-Inn-fields, in order to break them in, and they from the carelessness of the driver, ran over a passenger, it was held that an action brought against the master, as well as the servant, was good. 3 *Keb.* 65. 1 *Vent.* 295.

So when a pawnbroker's servant took a pledge, and refused to deliver it on tender of the redemption money, the master was made to produce it. 2 *Salk.* 441.

And if a smith's servant lame a horse whilst shoeing him, an action for damages will lie against the master, and not against the servant. 1 *Black. Com.* 431.

But it is to be observed, that, in all the above cases, the damage &c. must be done whilst the servant is actually employed in his master's service, otherwise he is liable to answer for his own misbehaviour or neglect.

And agreeably to this distinction it was that at common law, if a servant kept his master's fire negligently, so that the house of his neighbour was burned down, or
other

other damage done him, an action would lie against the master, because the negligence happened in his service; but no action would lie if it were done by the servant in the street, for he not being then in the master's immediate service, must himself answer for the consequences of his negligence. *Noy Max.* 112.

Fire by servant
6 Ann c. 31.

In the former case, however, the law is now altered by 6 Ann c. 31. §. 3. which protects the master from an action for damages, by enacting that no action shall be maintained against any in whose house, or chamber, any fire shall accidentally begin, the loss of the master being in such case deemed a sufficient punishment for his own or servant's carelessness.

14 Geo. III.
c. 78. §. 84.

But by 14 Geo. 3. c. 78. if a fire happen through the negligence of any servant (whose loss is generally very inconsiderable,) he shall forfeit 100*l.* to be distributed amongst the sufferers, or be committed to a workhouse for the space of 18 months.

A master is likewise chargeable if his servant cast any dirt, &c. out of the house into the common street, to the damage or annoyance of any individual, or the common nuisance of his majesty's people. *Noy Max.* 111.

Observation.

Upon the above cases it is remarked by Sir W. Blackstone, (1 *Com.* 423) though the master, as appears from the cases we have adduced, may frequently be a loser by the trust reposed in his servant, he never can be a gainer; he may frequently be answerable for his servant's misbehavior, but never can shelter himself from punishment by laying the blame on his agent, the reason of which is, that the wrong done by the servant is looked upon in law as the wrong of the master himself, and it is a standing maxim, that no man shall be allowed to take advantage of his own wrong; and hard as this rule of law may sometimes be on an innocent individual, the reader will perceive it to be founded upon principles of public policy and utility, and has a tendency to make masters careful in the choice of their servants, and consequently servants tenacious of a good

good character ; by which many injuries to society and to themselves are not unfrequently prevented (a).

IV. *The Acts for which Servants are answerable to their Masters in a civil Action.*

A servant is not answerable to his master for any loss which may happen without his wilful neglect, but if he be guilty of fraud or gross negligence, an action will lie against him by his master.

Servants not answerable for accidents, but are for neglect.

Therefore, If a master give money to his servant to carry to such a place, and he is robbed, the servant shall not be answerable, for a servant undertakes only for his diligence and fidelity, and not for the strength and security of his defence ; he is not therefore obliged to preserve his master's property at all events : and in this the law observes a difference between a servant and another person, for every other person has properly no other care than of his own concerns, and is not bound in point of duty to defend or intermeddle with the property of another. If therefore, he officiously create to himself such an undertaking, he is obliged to make good the loss if any happen. But a servant is under the command of his master, and bound, if desired, to charge himself with his master's affairs : now the contract by which he becomes a servant,

(a) We may here observe though it relates rather to the master *only*, than to the *relation* between masters and servants, which is the subject of the present treatise, that by 32 Geo. 3. c. 56. it is enacted, that any person giving a false character of a servant, or any servant bringing a false character of himself; shall on conviction before a justice of the peace, forfeit the sum of 20*l.* and 10*s.* for costs ; and the informer is in this case allowed to be a competent witness. And it has been held by Mansfield, C. J. (sittings after Trinity Term, 1792.) that when a person knowingly gives a false character of a servant, he shall be answerable to the amount of the loss which another may sustain in consequence of taking him upon such character.

Now we are upon this subject, it may be noticed, that an action of defamation will not lie by a servant, against his master, for words spoken by him in giving a character of his servant, unless the servant can prove the words to be not only *false*, but *malicious*. 1 Term Rep. 110.

If, however, a false character be given of a servant by his master, without ground, and purely to defame, it is a proper ground for an action. Per *Ld. Mansf. Eul. Ni. Pri. 8.*

implies

implies no more, as we have said, than an undertaking for obedience, care, and fidelity; and whenever he afterwards engages in the concerns of his master, it is in consequence of that contract, and can extend no farther than that implies, he consequently cannot in reason be answerable for any unavoidable accident, arising from no want of care or faithfulness in him. See 3 *Bac. Abr.* 564.

But if he do any thing fraudulently, or is guilty of gross neglect or disobedience, it is otherwise.

As, if a servant, driving his master's cattle, suffer them to perish for want of due attention to them, the master may have an action on the case against him. *Ibid.*

And so if a man deliver a horse to his servant to take to market, or money to pay to another, and he neglects to do it, his master may have an action of account or detinue against him. *Moer.* 248.

And so of similar cases. See 1 *Sid.* 298. 1 *Lev.* 188. 2 *Keb.* 88. *Ca. Law & Eq.* 109.

V. *The Acts for which a criminal Prosecution will lie against a Servant in regard to the Interest of his Master.*

Servants detrauding their masters of goods, &c.

Having seen in what cases a civil action may be had by a master against his servant, it will now be proper to observe upon the criminal acts for which a prosecution will lie against servants, in relation to their masters.

By the common law, a servant (even though under age) was guilty of felony in taking away the goods, &c. of his master, though the goods, &c. were under the immediate charge of the servant, (and may still be indicted for such offence at common law, if feloniously committed,) see post p. 11. note (a); if, however, any particular goods, &c. were expressly delivered to the servant by his master, to keep, or to carry to such a place, and the servant converted them to his own use, it was considered as a breach of trust only, and not felony; but now by statute 21 Hen. 8. c. 7. it is enacted, that all servants to whom any caskets, jewels, money, goods, or chattels, by their masters or mistresses shall from henceforth be delivered to keep, and who

21 Hen. 8. c. 7.

who shall withdraw themselves from their masters or mistresses, and go away with the said goods, &c. or any part thereof, with an intent to steal the same contrary to the trust and confidence in them placed; or shall, being in the service of their masters or mistresses, embezzle the same caskets, jewels, money, goods, or chattels, or any part thereof, without the assent of such master or mistress, or otherwise convert the same to their own use with like intent to steal, that then, if such caskets, jewels, money, goods, or chattels, be of the value of 40s. or upwards, the said false, fraudulent, or untrue act of the servant shall henceforth be deemed and adjudged felony (a). The said act not to extend to apprentices, or to any persons under the age of 18 years, who are to remain as before the passing thereof (b).

On this statute it has been held,

Construction
of the above
statute.

1. That it extends to such persons only as were servants to the owner of the goods, both at the time they were committed to their care, and also at the time of their being stolen. 1 Hawk. P. C. 92.

2. That it extends to such goods only as were expressly delivered to the servant to keep, &c. and that therefore a servant who embezzles rents, or other money, or who being entrusted to sell goods, departs with the money, is not within the statute. Dyer, 5 pl. 2. 3 Inst. 105. 1 Hawk. P. C. 92.

But it has likewise been held, that if a servant to whom goods are delivered to keep, receive them from the wife of his master, or from another servant, it is as much felony

(a) The felony by this statute is *within benefit of clergy*, but the reader is to be apprized that by 12 Ann. stat. 1. c. 7. it is enacted, that *whoever shall feloniously steal money or goods to the value of 40s. or more in any dwelling-house, or out-house thereto belonging, or shall assist or aid therein, shall be debarred from benefit of clergy*. The act not to extend to apprentices under the age of fifteen, who shall rob their masters.

(b) And therefore, though the statute exempts an apprentice or servant under the age of 18 years from the charge of felony by this act, viz. where goods, &c. are delivered to him, yet it still leaves him open to any felony at common law, the same as if he were not exempted here. See 1 Hale, H. C. L. 668.

as if he had them from his master's own hands; for a delivery by the order of the master is the same as a delivery by the master. 3 *Bac. Abr.* 566. 1 *Hale, C.* 668.

3. That it does not extend to the taking of any thing of which the actual property is not in the master at the time. See *Dalt. c.* 102. *Crompt.* 50. 1 *Hawk. P. C.* 92.

4. That the statute does not extend to the wasting or consuming of goods, however wilfully it may be done: nor to the embezzlement of a bond or any other chose in action. 1 *Hawk. P. C.* 92.

VI. *The Duty on Servants.*

Duty on male
servants.

Relative to the duty on servants, it is enacted by 25 *Geo. 3. c.* 43. § 3. that every person who shall retain or employ any male servant, shall pay the following yearly sums, viz.

	£.	s.	
For one male servant the sum of	1	5	
For two ditto — — —	1	5	each.
For three and not more than four	1	10	each.
For five and not more than seven	1	15	each.
For eight and not more than ten	2	0	each.
For eleven and upwards —	3	0	each.

and further that every person of the age of 21 years and upwards, never having been married, shall pay the annual sum of 1*l.* 5*s.* for each male servant, over and above the duties before mentioned.

And by 31 *Geo. 3. c.* 5. and 33 *Geo. 3. c.* 28. it is provided, that there shall be paid upon the gross amount of the duty with which any person shall be chargeable for servants, the further sum of 10*l.* per cent. per ann. and so in proportion for any less sum.

The servants to
which the act
extends.

And by the said act 25 *Geo. 3.* the said duties are declared to extend to all servants employed in the capacities of maitre d'hotel, house steward, master of the horse, groom of the chamber, valet de chambre, butler, under butler, clerk of the kitchen, confectioner, cook, house porter, footman, running footman, coachman, groom, postilion, stable

ble boy, helper in stables, gardener, (not being a day labourer) park keeper, game keeper, huntsman, whipper-in, waiter in a tavern, coffee house, inn, alchouse, or other house licensed to sell wine, ale, beer, or other liquors by retail, (except occasional waiters,) or by whatever other name such servants really acting in the capacities aforesaid, shall be called, or whether they shall be employed in one or more of them, or other business jointly therewith.

And it is provided that the duty on coachmen, grooms, postilions, or helpers, *let out to hire by way of job*, shall be paid by the master *for whose use* they shall be employed; and so of *gardeners* retained by any person for the care of any garden.

And that no person shall be exempt from the payment of the duties in respect of any such servant on account of his being bound as an apprentice, except they be parish apprentices, not exceeding two, imposed on the master by overseers, &c. and those are not to be exempt, if employed as livery servants (a).

Provided that nothing in the aforesaid act shall extend to any male servant who shall be employed really, truly, and *bona fide* for the purposes of husbandry, farming, grazing, the dairy, manufacture, or of any other trade or calling, (except innkeepers, &c. before mentioned) by which the master shall earn a livelihood.

Servants excepted.

Nor to any butler, manciple, cook, gardener, or porter of any college, or hall, in either of the universities, or the colleges of Westminster, Eaton, or Winchester, nor to the hospitals of Christ, St. Bartholomew, Bridewell, Bethlehem, St. Thomas or Grays, or the Foundling; nor to the servants of any of the royal family, or of any ambassador or foreign minister residing in this kingdom.

Nor to the servant of any officer serving in any regiment of horse or dragoons under the rank, or who shall not receive the pay of a field officer, so that he retains no more than *one* servant; nor to the servant of any officer in

(a) But it is said that if they do not *actually wear a livery* they are exempted by the clause *however they may be employed*.

any

any regiment of artillery, infantry, or marines, or corps of engineers, provided such servant be actually a soldier in the regiment or company to which such officer belongs, nor to the servants of any officer in the navy, such servant being borne upon the books of the ship to which such officer may belong.

Nor to one only servant of any officer on *half pay*, belonging either to the navy, army, or marines, and disabled in his majesty's service.

Upon this act of 25 Geo. 3. the following cases have been determined (a).

Cases determined in the above act.
As to footmen.

A boy of 12 years of age, fatherless, and taken out of charity, was employed as an errand boy: he received no wages but cloaths and board; he wore no livery, nor waited at table except two or three times when his master was at a public dinner; he went on errands, cleaned shoes, sharpened knives, swept the garden, lighted the fire, and did other occasional business in the house; upon an appeal from an assessment, he was adjudged to come under the description of a male servant, *acting in the capacity* of a footman, and therefore rateable.

Coachman.

And so when a man lived with his master as a day-man, drove the plough and did other business in husbandry, for which he was paid by the week; *but who sometimes drove his master's coach* (when, and at no other time he had his victuals,) it was determined that he was assessable as a coachman.

Grooms.

A clergyman who collected his tythes kept a boy, whom he hired as a husbandman, and who was employed chiefly in husbandry-matters, but also looked after a chaise and riding horse of his master's, together with other horses, and occasionally attended his mistress when she rode out. This boy was held to be rateable as a footman or groom.

But in another case where a master had lands in his own occupation of the annual value of 40l. and only

(a) See 4 Williams's Justice, 850.

one servant to do the work, it was determined that this servant was not chargeable as a groom, though it was admitted that he sometimes cleaned his master's horse, &c.

In the case of a gardener the facts were, that the gardener had agreed to keep a person's garden in order at so much a year, and went there as often or seldom as he pleased; he was also employed by other persons for the same purpose, and he occasionally worked in gardens as a day-labourer; he was adjudged to be chargeable. Gardeners.

But in another case nearly similar, where however it appeared that the gardener was paid by the week for the work he occasionally did, and that the master's coachman pruned the trees of the garden, and did the principal part of a gardener's office, and had extra wages on that account, it was held that the gardener could be deemed only a day-labourer, and therefore not assessable.

In regard to gamekeepers it has been determined that in order to come within the meaning of the act they must be the actual and proper servants of the lord of the manor, for though *all gamekeepers* are rateable by the *terms* of the act, the judges have held that *gentlemen* to whom lords of manors may grant deputations are not chargeable because they cannot be deemed his *servants*. Gamekeepers.

Nor is an assistant to a gamekeeper, hired by the day for the sporting season, rateable as a gamekeeper, because there can be but one gamekeeper to the same manor.

The huntsman of a subscription pack, though the servant of no one in particular, but of all the members, was held rateable like any other huntsman. Huntsmen.

Waiters, &c. attending the houses for the season at watering-places are chargeable like other waiters and servants, though they receive no wages, nor have any connection with their masters after the season is over. Waiters.

But ostlers, chaise-drivers, and helpers in inns and other such like places are held not to be chargeable if employed for the sole and only purpose of carrying on that business.

Many

Servants of
tradesmen in
business.

Many questions have arisen as to what persons, employed by men in business, partly in the concerns of the trade, and partly for other purposes, are to be deemed servants within the proper construction of the act; the principal decisions which have taken place are the following.

A tradesman had two servants whom he hired and paid by the week, and who did not board or lodge in the house, they were generally employed in carrying out goods of their master's with horses kept principally for that purpose, they looked after these horses, and also used occasionally to wait in the shop and go on errands, as well for the family as in matters of the trade, they likewise cleaned shoes and knives; in this case it was determined that the master was not chargeable for them as servants.

And so also a boy employed in a similar manner by his master, who was a draper, was held to be not chargeable, though he boarded and lodged in the house, he not wearing a livery or waiting at table.

A like determination was given in regard to the servant of a schoolmaster employed in cleaning the boys shoes and other family matters, it appearing that he was hired and retained by his master for the sole purpose of his calling as a schoolmaster.

And the same was held in respect of the boy of a surgeon and apothecary employed in carrying out medicines, cleaning the shop, looking after the horses, and cleaning boots and shoes.

But otherwise when the boy besides doing the above business also *waited at his master's table*.

CHAP. II.

OF APPRENTICES.

AN Apprentice, from the French verb *apprendre*, to learn, is one who is bound by indenture to another, for a certain term of years for the purpose of being taught his master's trade or profession.

For

For the greater perspicuity in treating of so extensive and important a branch of our subject as that of apprentices, we shall distribute our matter into several distinct heads, and consider

I. To what trades the necessity of serving an apprenticeship extends.

II. What persons are capable of binding themselves apprentice; and who are compellable to be bound apprentice.

III. Who are permitted to take apprentices; and who are compellable to take them.

IV. The mode of binding an apprentice; and the in-rollment and duties of indentures of apprenticeship.

V. The interest which a master has in the service of his apprentice, and the authority he may exercise over him.

VI. Of turning over, or assigning apprentices to other masters; the death of the master before the expiration of the apprenticeship; and the consequence of the master's becoming a bankrupt.

I. Of the Necessity of serving an Apprenticeship as a Qualification to practise a Trade or Profession.

At the common law, every person was at liberty to follow whatever trade or profession he chose, without any previous tuition or apprenticeship; but this being found very mischievous and detrimental to the public by frequently inducing people to exercise trades in which they had little or no experience or skill; and with a view of bringing up young persons in the habits of application and industry. 11 Co. 54. 2 Bulf. 191. It is enacted by 5 Eliz. c. 4. that it shall not be lawful for any person or persons other than such as then did lawfully exercise any art, mystery, or manual occupation, to set up, use, or exercise any craft, mystery, or manual occupation then used within the realm of England or Wales, except he shall have been brought up therein seven years at the least, as an apprentice, according to that statute: or else

C • having

The necessity of serving an apprenticeship.

having served as an apprentice as aforesaid, shall become a journeyman, or hired by the year, upon fine that every person wilfully offending shall forfeit 40s. per month, half to the king, and half to the prosecutor.

But by 6 and 7. Will. c. 17. it is provided, that any apprentice who shall discover two offenders guilty of coining, so as that they may be convicted, he shall be deemed a freeman, and exercise his trade without molestation, as if he had served his full time.

And by 3 Geo. 3. c. 8. it is enacted, that any officer, mariner, or soldier, who has been employed in his majesty's service, and not deserted, may lawfully exercise any trade he may be fit for, without serving an apprenticeship thereto.

In expounding the statute of 5 Eliz. we shall consider, 1. What the trades are to which it extends. 2. What sort of following is intended by the statute. 3. What kind of service is deemed sufficient within the said act. 4. In what courts actions on that statute are to be prosecuted.

1. The trades enumerated in the above statute, are those of an

The trades to
which the
statute extends.

Arrow-head maker	Cutler
Baker	Draper
Bowyer	Dyer
Brewer	Earthen Potter
Bricklayer	Farrier
Brickmaker	Feltmaker
Burners of lime, and of oat and wood-ashes	Fletcher
Butcher	Fuller
Capper	Glover
Carpenter	Goldsmith
Clothier	Hatmaker
Clothmaker	Hellier
Clothworker	Hosier
Cook	Imbroiderer
Cooper	Ironmonger
Currier	Limeburner
	Linen-weaver

Mason

Mason (rough)	Shoemaker
Mercer	Slater
Merchant	Smith
Miller	Spurrier
Millwright	Tanner
Pewterer	Taylor
Plasterer	Thatcher
Ploughwright	Till maker
Sadler	Tucker (i. e. Turner)
Sawyer	Weaver (of linen and
Sheerman	woollen cloth)
Shingler	Wheelwright

But it has been determined that there are many trades within the equity and general verds of the statute, besides those particularly specified. 1 *Salk.* 61. though it must be some trade which was exercised at or prior to the passing of the act (a) *Palm.* 528. 1 *Sid.* 175. and not any art or mystery since invented. 1 *Roll. Rep.* 10. 1 *Vent.* 526, 546. but see 1 *Str.* 663. 2 *Ld. Raym.* 1410.

And this being a penal law, in derogation of the common law, and in restraint of that free and unlimited right which every man naturally has to exercise whatever trade he pleases, the courts have in prosecutions on this statute, always leaned as much as they could, in favour of the defendant; and it has been adjudged that it extends to such trades, &c. only, as require skill and experience (b), the words of the statute being *craft* or *mystery*, 8 *Co.* 130. and that therefore a *merchant*, *husbandman*, *gardener*, &c. are not within the statute, nor a *hempdresser* (c). *Cro. Car.* 499.

(a) This therefore must be averred in the indictment, or declaration, and it is a good exception in arrest of judgment, that it was not averred, unless indeed it be a trade expressly mentioned in the act, when such an averment is unnecessary. *Bul. Nisi Pri.* 192.

(b) Which is to be decided by the opinion of a jury. 2 *Salk.* 611.

(c) In 2 *Bulst.* 190. it is said to have been adjudged that an *upholsterer* is not within the statute, but this was afterwards denied to be law. 2 *Lev.* 243. 1 *Sid.* 367. It has also been doubted whether a *huckster*, or *applemonger*, or a *coltermonger*, or *fruiterer*, are within the statute. See 2 *Bulst.* 190. 2 *Lev.* 206. 1 *Vent.* 326, 346.

But it is clearly agreed that the trades of a brewer, baker, or cook, are within the statute, as unskilfulness therein might be very injurious to the lives and healths of his majesty's subjects; but a man may exercise any of them in his own house for the convenience of his family, &c. 11 Co. 54. *Hob.* 183, 211.

2. What sort of following is within the statute.

2. As to what shall be deemed a following within this statute.

It is held that the following a trade within the intent of this statute, must be with a view to get a livelihood by it, and that therefore the using the trade of a brewer, baker, cook, taylor, and the like, in a private family, is no infringement upon the statute. 11 Co. 54. *Hob.* 183.

But in a case where the defendant being a Turkey merchant, exported woollen manufactures, and employed clothiers (who had served their apprenticeship) to work in his own house, and dyers to dye his cloths; he was held to be within the statute, though the cloth was made for his own merchandize only, and by persons properly qualified; for in this case it was said, they were hiring servants, and not traders, he being the trader who received the profits: and these cloths were not confined to the use of the defendant's family, but employed in commerce; and whether they were vended in England or in Turkey was immaterial. 2 *Salk.* 610.

And if a coachmaker keeps wheelwrights to make his wheels, curriers to dress his leather, &c. it is against the statute, for it is the coachmaker who receives the profits of the several trades, and the workmen are but his servants. *Carth.* 163.

And so where a man kept journeymen shoemakers to make shoes for exportation, it was resolved to be exercising the trade of a shoemaker within the statute. *Ibid.* 164.

But it has been adjudged that the mere entering into partnership with a tradesman and sharing the profits, and standing the risks without personally interfering in the business, is not within the statute. 1 *Bur.* 2.

Nor is a journeyman, who is not a tradesman, but a servant; the act was meant to prevent masters only from setting up trades without being qualified by a previous apprenticeship, or from employing others without such qualification, but was never intended to extend to servants or journeymen employed in the trade. 4 *Bur.* 2450.

The statute does not restrain a man from exercising as many trades together as he pleases, so that he has served an apprenticeship to them all, or otherwise exercised them for the term of 7 years. *Carth.* 163.

Therefore, when one who had been apprentice to, and for some time followed the trade of a glazier, afterwards exercised the trade of a carpenter for the space of 9 years, it was objected, that, being originally bred up to the trade of a glazier he could not follow two trades, both glazier and carpenter; but *by the court* there is no law at this day against one man's following several trades; and without the least doubt, a man may follow twenty trades if he has worked at or followed each trade seven years. 2 *Wils.* 168.

It was formerly doubted whether the statute extended to villages in the country (see 3 *Bac. Abr.* 553.) and in *Ball v Cobus*, 1 *Bur.* 367. it was moved that the information might be quashed, on the ground that the act was intended for the benefit of corporations only, and extended to no place less than a city, market town, or corporation; but per *Ld. Mansfield*, there is nothing in the act to restrain it to a city, market town, or corporation: and per *Foster, J.* many trades are carried on entirely in villages, particularly the cloth trade in Yorkshire.

3. What is deemed a sufficient service within the statute.

It is not necessary that a person should have been actually bound apprentice in order to qualify him to set up a trade, for it has been held that the following or working at a trade for the term of 7 years, is a sufficient qualification within the intent of the statute. 1 *Salk.* 67. 2 *Ibid* 613.

3. What is deemed a sufficient qualification.

And

And so where in an action brought upon this statute, it appeared that the defendant had for 7 years and upwards been employed by his father in the trade, but had never been bound apprentice, he was adjudged sufficiently qualified within the statute. *Carth. 163.*

And therefore, also, a wife who has lived with her husband in the business for a term of 7 years, may continue to carry on the trade after his death, and likewise a second husband of such woman, having been married to her for seven years, may go on with the trade after her decease. *Ibid. and Ca. Law and Eq. 70. Bul. Ni. Pri. 139.*

And where a person has been employed seven years in a trade without exercising it, it matters not whether the person with whom he has so lived have a right to exercise the trade or not, for all that is requisite is, that he be employed in it for a term of 7 years. *Ibid.*

And such service or employment need not have been within the realm, it may have been partly in England, and partly elsewhere, or wholly elsewhere. *3 Keb. 550. Ca. Law and Eq. 70. 1 Salk. 67.*

4. Where actions on this statute are to be prosecuted.

4. Where actions on this statute are to be prosecuted.

By stat. 31 Eliz. c. 5. it is enacted, that "all suits for using a trade without having been brought up in the same, shall be prosecuted at the general quarter sessions of the peace, or assizes of the same county, where such offence shall be committed, or in the leet within which it shall happen; and not in any wise out of the same county where such offence shall happen, or be committed."

But it is to be observed, that the statute does not restrain a suit being commenced in the King's Bench or Exchequer, for such offence happening in the same county where these courts are sitting, for the words of the statute are not that a suit shall not be brought in any other court, but any other county, and the prerogative of the superior courts is not to be restrained without express words. *Cro. Ja. 178. Hob. 184. 1 Salk. 373.*

But where the offence is committed in a different county, it should seem that a suit in these courts out of the county

is

is within the exprefs words (a). *Cro. Ja.* 85. *Hob.* 184, 327.

And the quarter fessions of boroughs may receive indictments on this statute, as well as those of the county at large, there being no danger of oppression, because a *certiorari* lies to the courts above. *1 Salk.* 317. *6 Mod.* 220. for the statute does not hinder the removal of any indictment into the court of King's Bench by *certiorari*, after which it may be tried there or in the county by *Nisi Prius*. *1 Jones* 193.

II. *What Persons are capable of binding themselves Apprentice, and what Persons are compellable to be bound.*

I. Who may bind himself apprentice.

Any person, even an infant, under the age of 21 years, may bind himself apprentice.

Persons capable of binding themselves apprentice.

Yet by the common law, persons under the age of 21 years cannot bind themselves in such a manner as to entitle their master to an action for breach of the articles, or for departing his service, which makes it proper, according to the usual practice, for the father or some other friend of the apprentice, to engage for the faithful discharge of his duty for the term agreed upon. *11 Co.* 89. *3 Bac. Abr.* 547.

Unless by the custom of *London*, where an infant, unmarried, and above the age of 14 years, may bind himself apprentice to a freeman of London by indenture and covenants, which will be as binding as if he were of full age (b). *Moor* 134. *1 Mod.* 271. *2 Bulst.* 192.

On account of the inconvenience arising from infants not being at common law bound by their indentures, the act of 5 Eliz. c. 4. provides that all persons who shall

(a) But it was formerly doubted whether an action of debt on information in the courts above was not out of the meaning of the statute, but it now seems to be otherwise settled on the construction of 21 Jac 1. c. 4. which provides, that no action of debt or information, or other suit whatever, shall be brought in the courts of Westminster hall, on any penal statute passed before that act, for any offence for which the offender may be prosecuted in the country; unless such offence shall be committed in the same county in which such court shall sit. See *3 Bac. Abr.* 555. and the cases there referred to.

(b) And for breach thereof an action may be brought in any other court as well as those of the city. *Moor.* 136.

thereafter

thereafter be bound by indenture to serve as an apprentice, in any art, science, occupation, or labour, although he shall be within the age of 21 years at the time of entering into such apprenticeship, shall nevertheless be obliged to serve for the term in said indentures specified; as amply and largely, to every intent, as if the same apprentices were of full age at the time of making such indentures.

But notwithstanding this statute, it has been adjudged that, no action of *covenant* is maintainable against an apprentice for leaving his master's service without leave, for though an infant under 21 may bind himself an apprentice, and by continuing such for 7 years is qualified to follow his trade, yet, neither by this statute, nor by the common law, will a covenant or obligation bind him so as to subject him to an action (*a*). *Cro. Car.* 179. *Cro. Jac.* 494.

If, however, the father or other friend of the apprentice, is made a party to the indenture, the master may have an action of covenant against such person for any breach of the articles by the apprentice. *8 Mod.* 191. *2 Doug.* 518.

But though an infant apprentice is not bound by his indenture so as to have an action brought against him, yet it has been held that he may be compelled (under this statute it is presumed) to continue his service till the expiration of his term (*b*); for when an apprentice ran away from his master for the purpose of avoiding his indenture on the ground of its having been entered into during his minority, he was remanded back by the court of King's Bench, on appeal from the justices (*c*). *Cald.* 26.

In a later case, however, it was clearly held that infants cannot be bound by their indentures beyond the age of 21 years, but may dissent from them, when they arrive at

(*a*) But if he misbehave, his master may correct him, or apply to a justice of the peace to have him punished according to the statute of 5 Eliz. 4.

(*b*) *Quære*, unless it run beyond the time of his arriving at the age of 21 years. See the next case.

(*c*) It seems needless to say that indentures may be cancelled, and the apprenticeship dissolved by the consent of all parties; this, however, has been thought worthy of discussion, and was determined. *Cald.* 32. 441. 562. 766.

that

that age; for per *Kenyon, C. J.* every indenture of an infant is void at his election; and in such cases the master must trust to the covenant of those who engage for the infant. 5 *Term Rep.* 715.

2. Who are compellable to be bound apprentice.

Persons compellable to be bound apprentice.

By the before mentioned statute of 5 *Eliz. c. 4.* it is also further enacted that every person under the age of 21 years, who shall be required by any householder using half a plough land in tillage, to be an apprentice in husbandry, or other art or mystery, or science, before expressed, he shall be compellable thereto, and if he refuse, upon complaint of such householder made to the justice, or to the mayor, bailiff, or head officer; and such justice, &c. shall think the person meet to serve, he may be committed unto ward, there to remain until he be contented, and will be bound to serve as an apprentice.

And by 43 *Eliz. c. 2.* it shall be lawful for the churchwardens and overseers of the poor (*a*), by the assent of two justices, to bind such poor children, whose parents they shall judge not able to maintain them, apprentices, where they shall see convenient, till such child, being a boy (*b*), shall attain the age of 21 years; and being a girl, till that age, or marriage; and the same shall be as binding and effectual to every purpose, as if such child were of full age, and by indenture of covenant bound him or herself.

III. *Who are allowed to take Apprentices, and who are compellable to take them.*

1. Who may take apprentices.

Who allowed to take apprentices.

By 5 *Eliz. c. 4. sec. 25.* it is provided, for the benefit and encouragement of husbandry, that every householder using half a plough land (*c*) in tillage, may take

Husbandmen.

(*a*) For the office and authority of churchwardens and overseers of the poor, to bind out poor apprentices, see that division of our work which is entitled the "*Parish Officer.*"

(*b*) By 18 *Geo. 3. c. 47.*

(*c*) A plough land is the same as a hide of land, it contains no certain quantity, but in respect of repairing the highways it was by 7 & 8 *Will. 3. c. 29.* settled at 5*ol.* per ann.

as an apprentice, by indenture, any person between the age of 10 and 18 years, to serve in husbandry, until such person be of the age of 21 years at the least, or of 24 years, if the parties shall so agree.

Tradesmen in
cities and towns.

And by the same act, sec. 26 and 28. it is further provided, that every householder being of the age of 24 years, dwelling in any city, town, corporation, or market town, and using any art, mystery, or manual occupation there, may take the child of any freeman not occupying husbandry, nor being a labourer, and inhabiting in any such city, town, corporation, or market town, to serve and be bound as an apprentice after the custom of London, for seven years at the least, so that the term of such apprentice do not expire before he be of the age of 24 years.

But these sections shall not extend to any *merchant trafficking beyond sea*, or to any *mercator, draper, goldsmith, iron-monger, embroiderer, or clothier*, unless the own sons of such persons, or unless the father or mother of the apprentice taken have freehold lands of the value of 40s. a year, if the master inhabit in a city, or town corporate, and 3l. a year, if he inhabit in any market town not corporate.

Tradesmen in
other places.

And further, sec. 30. it shall be lawful for any *smith, wheelwright, ploughwright, millwright, carpenter, rough-mason, plaisterer, sawyer, limeburner, brickmaker, bricklayer, tiler, slater, helier, tilemaker, linenweaver, turner, cooper, miller, earthen-potter, woollen weaver, (weaving housewives, or woollen cloth only), fuller, burner of oar and wood-ashes, thatcher, or shingler, wheresoever he shall dwell*, to take the son of any person as an apprentice.

All indentures, covenants, promises, and bargains for taking or keeping of apprentices contrary to the said act, are declared to be void (a), and the offender to forfeit 10l. half to the king, and half to the prosecutor; or if a cor-

(a) The statute of 5 Eliz. appearing to favor husbandry, corporations, and particular trades, more than the public at large, or trade and manufactures in general, every latitude has been allowed in the construction of it which could safely be admitted; and on this part of the statute it has been held that indentures made contrary to the act, are not absolutely void, but voidable only by the parties themselves, if they take advantage of the irregularity. *Bur. Set. Ca. 91.*

poration,

puration, then according to the charter. The said act shall in no wise extend to or control the cities of London or Norwich.

Not to extend to London or Norwich.

And by 5 Eliz. c. 5. every owner of a ship or vessel, and every householder exercising the trade of the seas, by fishing or otherwise, and every gunner, or cannoneer, and every shipwright, are allowed to take apprentices for the term of ten years, or under, and such apprentices, being above the age of 7 years, shall be bound by their covenants, as by the custom of London, so that the articles of apprenticeship are by indenture and duly enrolled.

Seamen.

Also by 1 Jac. 1. c. 25. § 21. *Ibid.* c. 28. and 3 Car. 1. c. 4. all persons to whom the overseers of the poor shall, agreeably to 43 Eliz. bind any children apprentices, may take and keep them as apprentices.

But by 1. Jac. 1. c. 17. § 3. 5. it is provided, that no hatmaker shall have above two apprentices at one time, nor those for any less term than 7 years, on pain of 5*l.* a month, half to the king, and half to the prosecutor; the said act not to extend to a man's own son, in his own house, so as he be bound by indenture for 7 years, and his term do not expire before he be twenty-two years of age.

Number of apprentice limited.

And by 13 and 14 Car. 2. c. 5. § 18. no weaver of stuffs in Norfolk and Norwich shall have above two apprentices in the said trade, on pain of 5*l.* a month to the king.

2. Who compellable to take apprentices.

We have seen that by 43 Eliz. c. 2. churchwardens and overseers of the poor are authorized by the assent of two justices, to bind out poor children as apprentices, and as they may put them out, those to whom they are put may consequently be compelled to receive them (a). 1 Salk. 67.

Who compellable to take apprentices.

And by 8 and 9 Will. 3. c. 30. where any poor children shall be appointed to be bound apprentice, pursuant to the act of 43 Eliz. the person to whom they are so appointed shall receive them and provide for them according to the

(a) And it has been held that an indictment will lie against a master refusing, notwithstanding the easier remedy by complaint, provided by the statute. 6 Mod. 163. Salk. 381.

indenture,

indenture, and on refusing so to do, he shall forfeit 10*l.* to be levied by distress and sale,—with liberty of appeal to the quarter sessions.

And by 20 Geo. 3. *c.* 36. it is enacted, that the persons to whom any poor children shall be appointed to be bound apprentice in pursuance of any act made for the relief of the poor, in *any particular incorporat^d hundreds, or districts*, such persons shall be compellable to receive and provide for such children according to the indentures executed by the directors or acting guardians of the poor of those places, *in like manner* as persons are obliged to receive and provide for poor children appointed there by churchwardens and overseers under a like penalty of 10*l.*

On these statutes it has been determined (notwithstanding a clause in the latter that it shall not extend to any but inhabitants and occupiers of land in the parish) that though a person is not resident in the parish, yet if he occupy lands in the parish, he is compellable to receive a parish apprentice; for, by *Kenyon, C. J.* the general object of these acts is to compel all those who have any property in the parish to contribute their due proportion towards the maintenance of the poor; and the receiving apprentices is one mode of doing this. 3 *Term Rep.* 107. *Ibid.* 523.

Also by 2 and 3 An. *c.* 16. § 8. all masters and owners of ships of from 30 to 50 tons burthen shall be obliged to take one parish apprentice, and one more for the next 50 tons, and one more for every one hundred tons which such ship shall exceed the burden of 100 tons: and such master or owner refusing to take such apprentice shall forfeit 10*l.* for the use of the poor of the parish.

But no master shall be obliged to take any such apprentice under the age of 13 years, or who shall not appear to be fitly qualified; both as to health and strength of body, for the purpose.

IV. *Of the Manner of binding Apprentices; and the Enrollment and Duty of the Indentures.*

Having seen to what trades an apprenticeship must be served, who may bind themselves, and who may take apprentices, we now proceed to shew in what manner an apprentice is to be bound.

The manner of binding an apprentice.

And this must be as directed by stat. 4 Eliz. c. 4. by indenture, that is by writing indented (*a*), or cut in a waiving line at the top, or side; and in the indenture he must be expressly mentioned as an *apprentice*, or else he is not, in law, an apprentice, though he be otherwise regularly bound. 1 *Seff. Cases*, 284. And as he must be retained by deed, so he cannot, it is said, be discharged but by deed. 2 *Ld. Raym.* 1117.

And it is further necessary that the apprentice be himself a party to, and sign the indenture, as was determined 1 *Salk.* 479.

The indenture must also by 8 Ann, c. 9. bear date on the day it is executed, and the money or other thing given or contracted for with an apprentice, must be inserted in words at length (*b*), otherwise the master shall forfeit double the value of the sum given.

It would be unnecessary to say that the master must be of the age of 21 years, only for the sake of observing that though he be under that age, yet it has been determined that the indentures shall not, on that account, be absolutely void, but only voidable at the instance of the parties, and the apprentice shall, if he serve his time, be nevertheless entitled to the benefit of his apprenticeship. 4 *Term Rep.* 198.

By the custom of London, and of some other places, it is necessary that indentures of apprenticeship should be en-

Enrolling indentures of apprenticeship.

(*a*) It is provided, however, by 31 Geo. II. c. 11. that he may gain a settlement under such writing, though it be not indented.

(*b*) And before an indenture of apprenticeship is given in evidence, the party on whose behalf it is produced, is required to make oath that to the best of his knowledge, the sum inserted therein was really and truly all that was either directly or indirectly given or to be given with such apprentice. *Ibid.* Sec. 42.

rolled

rolled (a). In London, if they be not enrolled before the chamberlain within one year after the execution, and the omission were by the fault of the master, the apprentice may sue out his indentures and be discharged; but not if it were from his own fault, as; if he would not present himself before the chamberlain, for the indenture cannot be enrolled unless the apprentice acknowledge it in court. *2 Roll. Abr. 405. 1 Mod. 271.*

Stamp on indentures.

By the several acts of parliament relative to the stamp duties, it is enacted, that all indentures of apprenticeship (except of parish apprentices) shall be impressed with the stamp of a duty amounting to 7s. and without such stamp the same shall not be admitted as evidence of the binding in any court of justice.

Parish apprentices.

Indentures of parish, or of charity children shall be stamped with a *sixpenny* stamp.

On the premium.

And besides such stamp duty it is provided by 8 An. c. 9. that the duty of 6d. in the pound shall be paid for every sum of 50l. or less, and *one shilling* per pound for every sum above 50l. given with an apprentice, and proportionally for greater or less sums; the same to be paid by the master; and if any thing not being money be given with an apprentice, the duty shall be estimated by the value of the thing so given or contracted for (b).

Parish apprentices.

The said duties, however, are not to extend to any apprentice put out at the common charge of the parish, or at the expence of any public charity (c).

And the said indentures of apprenticeship, if executed

(a) This custom does not extend to apprentices bound to watermen, as they are but a voluntary society, and not free of the city. *6 Mod. 69.*

(b) It was long a contested and doubtful question under this clause of the act, whether the covenant of the apprentice's parent or friend to provide him with cloaths, &c. was not liable to valuation and payment of the duty, and the officers of the stamp office used to claim the duty upon such covenant, till it was determined, *Trin. Term, 32.* of the present reign, that no duty was payable in respect of covenants for cloaths or maintenance. See *4 Term Rep. 732.*

(c) Though the binding be voluntary, and not compulsory under 43 Elis. c. 2. if the money be paid at the public charge of the parish, or charity, it is not liable to the duty. *4 Term Rep. 196.*

within

within the bills of mortality, must be taken to the head stamp office (a), to be impressed with a stamp for that purpose, and the aforesaid duties paid, within one month after the date of the indentures; and if executed elsewhere then the said indentures are to be taken either to the said head office, or to a collector of the stamp duties, out of the said limits, within two months after date, and the duties thereon paid; and the collector is to indorse thereon a receipt for the duties in words at length; and if it be within 50 miles of the bills of mortality, the said indentures shall be taken to the head office, to be stamped as aforesaid, within 3 months after date; and if above 50 miles, then within 6 months, otherwise the indentures shall be void, and not available to any purpose whatsoever (b).

Penalty for
neglect of pay-
ment.

And by 9 An. c. 21. if the master shall neglect to pay the duty within the time limited, he shall forfeit 50*l*. half to the king, and half, with full costs of suit, to him who shall sue for the same. And, further, by 11 Geo. 2. c. 22. if the said duties and *penalties* shall be neglected to be paid as aforesaid, he shall besides all other penalties, forfeit double the said duties.

And by 20 Geo. 2. c. 45. if after the master has forfeited the double duty, the apprentice shall, in the presence of one witness, or in writing, under his hand, signed in the presence of one witness, require his master to pay the same, and he shall not do it within 3 months, and such apprentice shall, either before or within 2 years after the determination of his apprenticeship, pay such duty, he may, within 3 months after such payment, demand of his master double the sum contracted for in his indenture, and may recover the same, unless paid within 3 months, by action at law. And if the time of such apprentice shall not have expired when he shall pay such duties, he shall (if he signify a desire thereof to his master in writing under his hand) be discharged from his apprenticeship, and have the same benefit of the time he may have served, as if he were assigned or turned over to a new master.

(a) Now in Somerset house in the Strand.

(b) See *Str.* 923.

Also

Also where any prosecution shall be commenced against the master for the above penalties, and the apprentice shall pay the double duty at any time within 2 years after the expiration of his apprenticeship, his indenture shall be valid, and may be given in evidence.

But by the same act, sec. 5. it is provided, that if any master having forfeited the double duty, shall pay the same, and tender the indenture to be stamped within 2 years after the determination of the apprenticeship, and before suit commenced for the penalties, the indenture shall be valid, and the penalties discharged (a).

Articles of
clerkship.

And further it is enacted by 34 Geo. 3. c. 14. § 1. (b), that there shall be paid on every contract whereby any person shall become bound to serve as a clerk, in order to his admission as a solicitor, or attorney, in any of the courts at *Westminster*, the sum of 100*l.* and in any of the courts of great sessions in *Wales*, or counties palatine of *Chester*, *Lancaster*, or *Durham*, or any court of record in *England*, (other than the courts at *Westminster*) holding pleas to the amount of 40*s.* the sum of 50*l.*

V. *Concerning the Interest which a Master has in the Service of his Apprentice; and the Authority he may exercise over him.*

The interest a
master has in
the service of
his apprentice.

1. The interest a master has in the service of his apprentice.

The master has a right to the labour of his apprentice during the whole term of his apprenticeship, and therefore by 6 Geo. 3. c. 25. it is provided, that if any apprentice, (with whom a sum less than 10*l.* was given as a premium, shall absent himself from his master's service before the term of his apprenticeship shall be expired, such apprentice shall, whenever he can be found, (unless it be 7 years since the term of his apprenticeship has expired) be compelled to return to and serve his master for so

(a) After noticing these numerous and heavy penalties, it is fit we should apprise the reader that an indemnity act is usually passed annually for the relief of persons who have omitted to comply with the requisitions of this and other penal acts of the like nature, provided they pay double duties, and in other respects comply with the act within a time therein specified.

(b) See an abstract of this act, p. 8*l.* chap. IV.

long

long a time as he shall have absented himself, unless he shall make such satisfaction to his master, for the loss sustained by his absence, as a justice shall order; and so from time to time as often as any such apprentice shall without leave absent himself before the term of his contract be completed; and in case such apprentice shall refuse to serve, or to make satisfaction, he may be committed to a house of correction for a time not exceeding 3 months—Liberty is allowed of appealing to the quarter sessions, giving six days notice to the justice, and to the parties.

The said act not to lessen the jurisdiction of the chamberlain of the city of London, or any court within the said city.

Whatever an apprentice may acquire before the expiration of his apprenticeship will also be the property of his master.

Therefore, where the widow of a waterman took an apprentice, who went to sea and earned two tickets; the tickets were adjudged to his mistress; for it was said that whatever the apprentice gained, he gained to his master, and whether he was legally apprenticed or not, was immaterial, for it was enough if he was so in fact. 1 *Salk.* 68.

And it is a common case for masters to recover the wages earned by runaway apprentices at sea, from the parents or others who receive such wages. 3 *Bac. Abr.* 559.

And in a case of singular hardship on the apprentice, the same rule of law was recognized by *Ld. Hardwicke*, 1 *Vez.* 83. In the case alluded to, the apprentice quitted his master's service against his consent, and went on board a privateer, which afterwards took a prize of which the apprentice's share was 1200*l.* which sum the master claimed, and upon a bill filed by the apprentice, his lordship said, that in general, the master was entitled to all the apprentice might earn, and consequently when he runs away and goes to a different business, the master is entitled at law to all his earnings, and in this case there is nothing in equity to relieve. But he said he would send the case

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to be tried at law, unless the parties would agree to compound the matter, which he recommended to them, and thought, as the boy's share of the prize amounted to so considerable a sum, the balance ought to be in his favor (a).

The authority
a master has
over his appren-
tice.

A master may correct and punish his apprentice in a *reasonable manner*, for abusive language, neglect of duty, or other default, but he cannot justify maiming or wounding him for any cause, nor can he delegate the power of chastising him to any other. 3 *Bac. Abr.* 566.

Observation.

But of this see more *ante* p. 4. relative to *menial servants*, concerning whom, and apprentices, the law is in this respect the same, except that the positions there laid down are applicable to apprentices of whatever age, whereas they apply to other servants only when under the age of one and twenty.

A master can-
not discharge
his apprentice.

But the master cannot of his own authority discharge his apprentice, nor can the apprentice leave his master of his own accord; but if they cannot agree, they are to proceed as directed by the stat. 5. Eliz. c. 4. or by that of 20 Geo. 2. c. 19.

Remedy of
master and ap-
prentice in case
of misbehaviour
or ill treatment

By the first of these statutes it is provided, that if any master shall mis-use or evil treat his apprentice, or the apprentice have any just cause to complain, or the apprentice shall not do his duty to his master, they shall repair to a justice of the county, or to the mayor, or other head officer of the city, or town where the master dwelleth, who shall make such order thereupon as the equity of the case may require.

And by 20 Geo. 2. c. 19. upon complaint unto two justices, by any parish apprentice, or other apprentice, upon whose binding out no larger sum than 5*l.* was paid, concerning any mis-usage, refusal of necessary provisions, cruelty, or other ill treatment, they may summon the master or mistress to appear before them, and on proof of such ill treatment, may discharge such apprentice.

(a) The master afterwards agreed to accept 450*l.*

And

And such justices, on complaint by any master or mistress, against such apprentice, concerning any misdemeanor, miscarriage, or ill behavior, may punish the offender by commitment to the house of correction, for a term not exceeding three calendar months, or otherwise by discharging such apprentice.

And by 2 and 3 Ann. c. 6. all complaints of ill usage from the masters to parish apprentices in the *sea service*, and also of such as shall voluntarily put themselves apprentices to the sea service, shall be enquired of and redressed by two justices near the ports, or by the mayor, and other chief officers, or magistrates of any city or town near the port to which the ship shall arrive, as in other cases between masters and apprentices.

VI. *Of assigning or turning over Apprentices to other Masters.*

An apprentice's being placed out to a particular person is supposed to arise from the good opinion which is entertained of him, with whom he is placed, who is expected not only to instruct him in his trade, but also to be watchful over his health and safety; and therefore the law has considered it as such a personal trust and confidence, that the master cannot assign or transfer him over to another, neither can he send him abroad, though under pretence of improvement, (unless by express agreement, or the nature of the business require, and imply such a power, as that of a sailor, &c.) for he must have him under his own care and inspection (*a*). 3 *Bac. Abr.* 555.

And so 12 *Mod.* 441. a master cannot assign over his apprentice, as he may another chattel, but it must be with his own consent; for the person of a man is not legally assignable. See also *Bur. Sett. Ca.* 135.

But though an apprentice is not strictly assignable, or transmissible, yet, per *Ld. Mansfield*, if he remain with

(*a*) Agreeably to this doctrine it has been adjudged that a surgeon's sending his apprentice a voyage to the East Indies, though in company with other surgeons, and the better to instruct him in the art of surgery, was a breach of the covenant by which he bound himself to retain, keep, and employ the said apprentice in his own house and service. See *Hob.* 134.

the consent of all parties, and his own, it is a continuance of the apprenticeship to the purpose of gaining a settlement.

And though a master cannot assign his apprentice so as to make him apprentice to his assignee, yet the assignment is not void, but is valid as a contract and agreement between the two masters that the apprentice shall serve the remainder of his term with the second, and so it is a service *as* an apprentice (*a*), per *Holt*, 1 *Ld. Raymond*. 683.

By the custom of London, however, a master being a freeman, may turn over his apprentice to another freeman, and such second master shall have the same benefit of the apprentice's covenant, as shall also the apprentice have of the covenants on the side of the master, as if he had been originally bound to him. *Mar.* 3. 1 *Keb.* 250.

And by 32 Geo. 3. c. 57. after reciting that it frequently happens that persons are obliged under 8 and 9 Will. 3. c. 30. to take a greater number of *parish* apprentices than it is convenient for them to employ, and are under the necessity of assigning them over; in order therefore that such assignments may be legally made under the control of the magistrates, it is enacted, that it shall be lawful for any master of any *parish* apprentice, upon the binding out of whom no more than 5*l.* shall have been paid, to assign, with the consent of two justices, by indorsement (*b*) on the indentures of apprenticeship, or by other instrument in writing, any such apprentice for the residue of the term, in such indenture agreed upon; provided the person to whom the apprentice shall be so assigned, shall, by indorsement on the counterpart of such indenture, or by writing under his hand, declare his acceptance of such apprentice, and acknowledge himself, his executors and administrators, to be bound in the covenants in the indenture, to be performed on the part of the master;

(*a*) And will therefore entitle him to a settlement. *Ibid.*

(*b*) The indorsement shall be without stamps. *Ibid.*

and in such case the apprentice shall be deemed to be the apprentice of such subsequent master, and so from time to time as often as it shall be necessary or convenient for such subsequent master to part with such apprentice.

And by 2 and 3 Ann. c. 6. § 6. every person to whom any poor parish boy shall be put apprentice under 43 Eliz. c. 2. may with the approbation of two justices, or of the mayor or other chief officer of any city, borough, or town corporate, turn over, by indenture, duly registered as thereby directed, such apprentice to any *master of a ship* of 30 tons burthen, and upwards (a), for the remaining time of his apprenticeship.

And by 4 An. c. 19. if any master who has been obliged to take such apprentice shall die during the time, his widow, or his executor or administrator, may assign over such apprentice to any other master of a ship who has not his complement of apprentices (b).

As to the assignment of the apprentice to another, on the decease of the first master, see the next section.

VII. *As to the Death of the Master, or his becoming a Bankrupt before the Expiration of the Term of Apprenticeship.*

If a master be bound only to instruct an apprentice in a trade for a certain term of years, and die before the term end, the obligation is dispensed with; for as an apprenticeship is a personal trust between the master and servant, it is determined by the death of either of them (c); and per *Eyre, J.* possibly the executor may be of another trade. 1 *Salk.* 66. But if the master be bound further, as to find

The death of the master.

(a) See *ante* p. 28.

(b) By 2 and 3 An. c. 6. the counterpart of the indentures of assignment must be attested by the collector at the port where such apprentice shall be bound or assigned, and the constable or other officer who shall bring such apprentice.

(c) But though the covenant for instruction fail on the death of the master, it has been held that he still continues an apprentice in respect of maintenance. 1 *Salk.* 61.

the

the apprentice with victuals and cloathing, in that case the death of the master is not a dispensation of the condition, but his executor will be obliged to fulfil it as far as they have affets; for per *Holt*, it would be very hard to construe the death of the master to be a discharge of the covenants. *Ibid.*

But by the custom of London, if the master die, his executor must place the apprentice with another master of the same trade, though the covenant be only for instruction. *Ibid.*

And in case of the master's death before the expiration of the apprenticeship, a court of equity will oblige his personal representatives to restore a proportionable part of the fee, or premium, which was given with the apprentice; as, where the master received with his apprentice 25*l.* and died within two years, during which time the apprentice had been employed in inferior matters but little conducive to his improvement in the business, the court of chancery decreed that the executors of the master should (after payment of the specialty debts) repay the said 25*l.* as a simple contract debt, deducting after the rate of 2*l.* per ann. for the apprentice's maintenance during the time he had been with his master. *Ca. Chan. Temp. Finch.* 396.

Assignment of
apprentice on
master's death.

In the preceding section we have stated the law respecting the assignment of an apprentice by his master, it now behoves us to state how the law stands in this respect upon the master's death.

With the consent of the apprentice, it is clear that the executors or administrators of his deceased master may assign him to another for the remainder of his term, but not without his consent, or there be some custom to the contrary; thus an award of *the justices* on the master's death that the apprentice should not be assigned to another, was adjudged to be void, unless there was a custom, or the apprentice concurred. *Horne v Blake*, cited 2 *Stra.* 1267.

And on the master's death there is no implied assignment or transfer of the apprentice to his executor or administrator, and therefore it seems that he is not bound
by

by his indenture to serve his master's representatives ; for on an action of debt by an executrix, on a bond for performance of the covenants in an indenture of apprenticeship, the court of King's Bench held that she could maintain no such action, observing that the binding was to the *master himself*, to learn *his* art and serve *him*, without any mention of executors ; and as the words were confined, so was the nature of the contract, which is fiduciary ; and an apprentice is bound from a personal knowledge of the integrity and ability of the master ; and though the assets of the master are liable on his covenant to maintain the apprenticeship, that is not material. 2 *Stra.* 1267.

Though an apprentice is not transmissible to the representatives of his master, nor assignable, yet, if he remain in the character of an apprentice with the assignee, or the personal representative of his master with his own consent, and the consent of the other parties, it will be a continuation of the apprenticeship for the purpose of gaining a settlement. *Cald.* 62. 1 *Doug.* 70.

And that though the assignment were only verbal ; as where the master of a parish apprentice died intestate, and the widow (without having taken out administration) assigned the apprentice to another master, who, with the consent of the apprentice, transmitted him to a third, it was held that he was well settled at the place where he served the third master ; for though the assignment was only a verbal one, it was done with the consent of all the parties concerned, and he lived under the terms of the first indenture of apprenticeship, and as an apprentice, bound according to the statute (a). *Bur. Set. Ca.* 133.

And as to parish apprentices it is enacted by 32 Geo. 3. c. 57. that in case of the death of the master of any parish apprentice, during the term of his apprenticeship, upon the binding out of whom no more than 5*l.* was given, the covenant for the maintenance of such apprentice shall not continue in force longer than for the space of 3 months

Parish apprentices.

(a) But if the apprentice doth not acquire a new settlement after the death of the master, that which he gained by his indentures remains. *Ibid.* 78a.

next after the death of such master (a), during which 3 months such apprentice shall continue to live with, and to serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint; and the master with whom such apprentice shall be during the said 3 months, and also the apprentice, shall, during that time, be subject to all the laws in force relating to masters and parish apprentices: and that within the said term of 3 months such apprentice on application made to two justices of the place where the master died, by the widow of the deceased master, or the husband of the deceased mistress, or by any son or daughter, brother, or sister, or executor or administrator of such master or mistress, shall be ordered (b), if he were living with and made part of the family, or were in the actual employment of such master or mistress at the time of his or her death, to serve any one of the aforesaid persons making such application for the residue of the term of his apprenticeship, provided the person so applying were living with the master or mistress at the time of their death; and such person shall declare his acceptance of the said apprentice by signing the order of the said justices, and after such order the executors and administrators, and the personal effects of the deceased master or mistress shall be discharged from all covenants on the part of the master contained in the original indenture of apprenticeship; and the person taking the said apprentice shall be deemed the master, in like manner as if he had been originally bound to him, and shall, together with his executors and administrators, be bound by the covenants in such indenture, as if he had executed a counterpart thereof, and be liable to the regulations in force relating to masters and parish apprentices; and the above provisions shall relate to the like event of any subsequent master, their relatives, and representa-

(a) And a covenant to this purpose is directed to be inserted in the indenture of apprenticeship.

(b) By indorsement without stamp, or any instrument in writing, stamped as parish indentures.

tives,

tives, as often as the case shall happen during the term of apprenticeship (a).

And if no application for such apprentice shall be made within 3 months, as aforesaid, or in case the said two justices shall be of opinion that the apprenticeship ought not to be continued, then the same shall determine, and the said indenture be at an end.

And it is further provided that in case any master appointed under this act, (or any original master) or if the executors or administrators of such master, having assets, shall, during such 3 months, refuse or neglect to maintain and provide for such parish apprentice, according to covenant, two justices of the county may, on application by the apprentice, or the churchwardens or overseers, order distress and sale of the personal estate of the master, for the maintenance of such apprentice—an appeal being allowed to the quarter sessions, if party is aggrieved.

The bankruptcy of the master is not of itself a dissolution of the apprenticeship; but the indentures may be delivered up, or the justices at the sessions may discharge the apprentice if applied to for the purpose. 2 *Ld. Raym.* 1352. 1 *Stru.* 582.

As to the master's becoming a bankrupt.

But for the more easy discharging of any *parish apprentice*, with whom not more than 5*l.* was given, from a master becoming a bankrupt; or whose circumstances are become so reduced as to render him unable to employ or maintain such apprentice, it is provided by the aforesaid statute of 32 Geo. 3. c. 57. that two justices of the place where any such master shall live, on application of the master for the discharge of any such apprentice for the reasons aforesaid, may enquire into the matter of such allegation, and if they find the same to be true, discharge such apprentice accordingly.

(a) The reason of the above provisions, as stated in the preamble of the act is, that the apprentice may make some satisfaction by his labour to the family or representatives of his deceased master, for the advantages he received from his apprenticeship in his childhood, when his services were unequal to the expences of his maintenance.

Nothing

Nothing in the said act shall extend to any parish apprentice where a larger sum was given than 5*l*.

But in cases not of *parish* apprentices, the general practice is, whenever the master becomes a bankrupt, for the commissioners to recommend it to the creditors to allow the apprentice a gross sum out of the estate for the purpose of binding him out to another master, which they usually do, as it would be hard to make him come in under the commission. This, however, is to be considered as an indulgence, and not a right which the apprentice can claim; for all that a court of equity can do is to order him to be admitted a creditor to the amount of the sum paid with him, after deducting a reasonable annual sum for his maintenance during the time he has served. See 1 *Atk.* 261.

CHAP. III.

OF JOURNEYMEN MANUFACTURERS AND LABOURERS.

HAVING completed all that we think necessary or material in respect of *menial servants* and *apprentices*, we shall now proceed to enquire into the laws relating to the remaining species of servants, (as considered by the laws of England) journeymen manufacturers, and labourers. And these we shall consider

I. In respect of the method of compelling them to work, and the time of their working.

II. As to their wages, and the means of recovering them.

III. Concerning the differences which may arise between workmen and their masters, and the misbehavior of workmen.

IV. The laws and statutes made for the regulating of the journeymen, labourers, and workmen of *particular manufactures*.

I. *The*

I. *The Time for which Persons may be compelled to serve, the Hours of Labour, and the Method of compelling them to work.*

By 5 Eliz. c. 4. § 3. it is enacted, that no person shall hire, nor shall any one be hired to work for a less term than one year, in the arts or trades of a clothier, woollen cloth weaver, tucker, fuller, clothworker, sheerman, dyer, hosier, taylor, shoemaker, tanner, pewterer, baker, brewer, Glover, cutler, smith, farrier, currier, saddler, spurrier, turner, capper, hatmaker or feltmaker, bowyer, fletcher, arrow-head maker, butcher, cook, or miller.

The time for which servants in certain trades are to be hired.

And by sec. 4. of the same statute it is provided, that every person not married, and every married person under the age of 30, having been brought up in the said arts, or having used any of them for the space of 3 years, and not having lands copyhold, freehold, or for life, of the yearly value of 40s. nor being worth the gross sum of 100l. (and so allowed not to be by two justices, or by the mayor or other head officer of the city or town where such person dwelt for one year, and also two aldermen, or other bur- gesses, if there be no aldermen, under their hands and seals) nor being retained in husbandry, nor in any art, nor in household, nor in any office with any nobleman, gentle- man, or others, nor having a convenient holding in til- lage, whereupon he may employ his labour, shall upon request made by any person using the art wherein the per- son so required has been exercised, be retained, and shall not refuse to serve upon the penalty hereafter men- tioned.

Who com- pel- lable to serve

And (sec. 5.) no person shall put away such servant, nor shall any person retained depart *before* the end of his term, unless for reasonable cause to be allowed by a justice, or other chief officer before whom the party aggrieved shall complain. Nor shall any master put away such servant at the end of his term, or any servant depart at the end of his term without giving a quarter's warning, upon the penalty hereafter mentioned.

It

Who compella-
ble to serve in
Husbandry.

It is also by the said act further provided, that every person between the ages of 12 and 60 years, not retained as an apprentice with any fisherman, or mariner, nor being in service with any rider or carrier of corn or meal for the city of *London*; nor with any husbandman, nor in any city or town in any of the arts limited by this statute to take apprentices, nor being retained by the year for digging, seeking, finding, getting, melting, fining, working, trying or making, of any foder, tin, lead, iron, copper, stone, sea-coal, stone-coal, moor-coal, or cheek-coal, nor being occupied in the making of glafs, nor being a gentleman born, nor being a scholar or student in any of the universities, or any school, nor having lands for life, or in fee, of the yearly value of 40s. or goods of the value of 40*l.* nor being a necessary or convenient officer, or servant lawfully retained, nor having a farm or holding whereon to employ his labour, nor being otherwise retained, shall be compelled to serve in husbandry by the year with any person that useth husbandry, and will require any such person to serve within the same shire wherein he shall be so required.

Discharge of
servants.

And if any master shall put away his servant before the end of his term, unless for cause to be allowed by a justice, or without a quarter's warning, such master, unless he prove by two witnesses such cause or warning before justices of *oyer and terminer*, or of assize, or quarter sessions, or before the mayor, or other head officer, and two aldermen, or two burgessees if no aldermen, shall forfeit 40s.

Punishment of
servant depart-
ing or not doing
his duty.

And if any servant retained according to the above statute shall depart before the end of his term, unless for some reasonable cause allowed as aforesaid, or at the end of his term, without a quarter's warning, or if any person bound to serve in husbandry, or other arts above-mentioned, by the year or otherwise, refuse to serve for the wages to be limited by this statute, or promise to serve, and do not serve, such servant upon complaint to

two

two justices, or the mayor, or head officer, and two bur-
geffes where no aldermen, shall be committed by them
to ward until he be bound to the party to serve and con-
tinue for the wages that shall be there limited, and to be
discharged upon his delivery, without fee to the goaler.

And every artificer and labourer retained in building
or repairing any church, house, ship, mill, or other work
in great, shall not depart unless it be on account of the
nonpayment of his wages, or be taken to serve the king,
or for other lawful cause, or unless he have leave of the
owner, before finishing his work, upon pain of imprison-
ment for one month, and 5*l.* to the party aggrieved be-
sides costs.

Or leaving
work unfinished

Also, no artificer or labourer retained to work for the
king, or any other, shall depart until the work be finished,
if the person retaining will so long have him, and pay
him his wages, upon pain of imprisonment for one
month.

All artificers and labourers being hired for wages by
the day or week, shall, betwixt the midst of March and
September, be at their work at five in the morning, and
continue till between seven and eight at night, except
during the time of breakfast, dinner, and drinking, which
shall not together exceed two hours and a half, that is to
say, at drinking one half hour, at dinner, one hour, and for
their sleep, when they are allowed to sleep, which is from
the midst of May till the midst of August, half an hour,
and at breakfast one half hour; and the said artificers and
labourers, between the midst of September, and the midst
of March, shall be at work from the spring of day until
night, except at breakfast and dinner time, upon pain of
forfeiting one penny for every hour's absence, which may
be deducted out of their wages.

The time of
working.

No person retained in husbandry, or in any of the arts
aforesaid, shall depart out of one city, town, or parish,
to another, nor out of the hundred, division, or county,
where he last served, to serve in any other city, town,
division, hundred, or county, unless he have a testimonial
under

Workmen not
to depart with-
out a testimo-
nial.

under seal of the city, or town, or of the constable or other head officer, and two householders of the city, town or parish.

And no person that shall depart out of one service shall be retained into any other, without shewing, before his retainer, such testimonial to the chief officer of the town corporate, and in every other town and place to the constable, curate, churchwarden, or other head officer where he shall be retained, upon pain that such servant so departing without such testimonial, shall be imprisoned till he procure one, which, if he cannot do within twenty-one days, he shall be whipped, and treated as a vagabond; and every person retaining such servant without such testimonial, shall forfeit five pounds.

Persons compellable to work in harvest.

In the time of hay or corn harvest, the justices of the peace, and also the constable, or other head officer of every township, upon request, and for the avoiding of the loss of any corn, grain, or hay, may cause all such artificers and labourers as are fit for work, to serve by the day, for mowing, reaping, shearing, and inning of corn, grain, or hay, according to the skill or ability of the person, and none shall refuse on the penalty of imprisonment in the stocks for two days and one night.

But persons of such counties where it has been customary to go into other shires for harvest work, and having at that time no harvest work sufficient in the same town or county where they dwelt in the winter last past, and taking with them a testimonial under the hand and seal of a justice, or head officer as aforesaid, certifying the same, may repair in harvest of corn or hay, to any other county or place, to mow, reap, and get in hay, corn, or grain, and to work at harvest work, as they might have done before the said act.

Women compellable to serve

And two justices, or the mayor, or head officer of a town corporate, and two aldermen, or two burgesses, if there be no aldermen, may appoint any *woman* of the age of twelve years and under forty, and unmarried and fit for service, to serve by the year, week, or day, for such

wages as they shall think meet; and if she refuse to serve, she may be committed to prison until she will serve.

It is also enacted by the 13th and 14th Car. 2. c. 12. that a person may go abroad to work in harvest, carrying with him a certificate from the minister, and one churchwarden or overseer, that he hath a dwelling house, or place in which he inhabits, and hath left a wife and children, or some of them there for other work, as his condition shall require (a).

And if any servant or apprentice of husbandry, or of any art, science, or occupation aforesaid, unlawfully flee into any other shire, they may be imprisoned till they find surety well and honestly to serve their masters.

Workmen
going into other
counties.

II. *As to the Wages of Workmen and Labourers; and the Mode of recovering them.*

To prevent servants from demanding exorbitant wages for their labour, it is enacted by 5 Eliz. c. 4. that the justices of the peace of every shire, riding, or liberty, and the mayor and other head officer, within any city, or town corporate, shall, yearly in Easter sessions, assemble, and shall call unto them such discreet persons as they shall think meet, and having respect to the plenty or scarcity of the time, and other circumstances, shall have authority to limit, rate, and appoint the wages, as well of such the said artificers, handicraftsmen, husbandmen, or any other labourer, servant, or workman, whose wages in time past have been by any law or statute rated and appointed; as also the wages of all other labourers, artificers, workmen, or apprentices of husbandry, which have not been rated, limited, or appointed, by the year, or by the day, week, month, or otherwise, with meat and drink, or without meat and drink, and what wages every workman or labourer shall take by the great for mowing, reaping, or threshing of corn and grain, or for mowing or making of hay, or for ditching, paving, railing, or

Justices may
settle wages of
workmen.

(a) And persons carrying with them such certificate shall, by 17 Geo. 2. c. 5. § 3. not be liable to be apprehended as vagrants.

hedging,

hedging, by the rod, perch, bigg, yard, pole, rope, or foot, and for any other kind of reasonable labour or service.

And by 1 Jac. 1. c. 6. the said act of 5 Eliz. is made to extend to the rating of wages of all laboureres, weavers, spinsters, and workmen or workwomen whatsoever, either working by the day, week, month, or year; or the taking any work by the great or otherwise; and when the said rates are so settled, the sheriff, or mayor, may cause proclamation thereof to be made, where to them shall seem convenient, and every person shall be bound to observe the same.

Penalty for giving more than the rated wages.

And if any person after such proclamation be published, shall directly or indirectly, retain at, keep or give any servant, workman, or labourer any more or greater wages, or other commodity than shall be appointed in such proclamation, he shall be imprisoned for 10 days, without bail, and forfeit the sum of 5 pounds.

Or taking thereof.

And every person who shall be so retained, and take wages, contrary to the said act, or to the said proclamation, shall be imprisoned for 21 days without bail.

And every retainer, promise, gift, or payment of wages, or other thing, contrary to the said act, and every bond or writing made for that purpose, shall be utterly void.

Penalty for refusing to pay the rated wages.

Also by the same statute, if any clothier or other person, shall refuse to pay so much wages to their weavers, spinsters, workmen, or workwomen, as shall be so settled, he shall forfeit 10s. to the party aggrieved.

Mode of recovering wages.

Though the justices are only authorized by the above statute to *rate* the wages, and not to order payment, yet from the indulgence which the law shews to remedies for wages, and the common practice of the justices, it has been held that they may order payment as well as assess the rates of wages. 2 *Ld. Raym.* 920. 6 *Mod.* 91. 1 *Stra.* 8. 475. 2 *Ibid.* 1002.

But the evidence of the servant not being admissible in cases of wages, on account of his being an interested witness, and the servant having no other means of enforcing the

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the order of the justice than by indictment, 5 *Mod.* 459. to remedy these inconveniences it was enacted by 20 Geo. 2. c. 19. that all complaints and disputes relating to wages between masters or mistresses and *servants in husbandry*, hired for one year or longer, or by 31 Geo. 2. c. 11. for a less time than a year, or between masters or mistresses and *artificers*, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and *other labourers*, employed for any certain time, or in any other manner, shall be heard and determined by one justice, although no rate of wages had been made in that year, which justice may examine any servant or other witness upon oath, and make such order for payment of so much wages as he may think just, provided the sum in dispute do not exceed 10*l.* in regard to any servant in husbandry, nor 5*l.* with regard to any artificer, handicraftsman, or other person aforesaid; and in case of refusal or non-payment for the space of 21 days after such determination, the sum so adjudged to the servant may be levied on the master and mistress by distress and sale. Persons aggrieved may appeal to the sessions, which shall be final.

In the construction of the statute of *Eliz.* it hath been determined that justices of the peace have no jurisdiction to order payment of wages except in the case of husbandmen and such servants whom they may compel to serve according to the statute. 6 *Mod.* 91. *Carthew.* 156.

The servants over which justices have jurisdiction by the above statutes.

Therefore, where justices of the peace made an order for the payment of so much money by a master to his coachman, and it was moved against the order that the statute 5 *Eliz.* c. 4. extends not to coachmen, or other servants than in husbandry; the court were of that opinion, and quashed the order. 2 *Jones* 47.

And on the authority of this case it hath been held, that the justices cannot make order for the payment of footmen, bricklayers, carpenters, or the like servants wages, because their jurisdiction is confined as has been before observed, to the wages of such servants whom they may compel to serve according to the statute. 6 *Mod.* 204, 205.

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And

And in this respect the stat. 20 Geo. 2. c. 19. doth not appear to have made any alteration, for, although the words potters, and *other labourers* employed for any certain time, or in *any other manner*, are very comprehensive, yet it seems, according to the general and better opinion, that the word labourers ought to be considered as restricted to labourers of the class and description before mentioned, and not as extending to every denomination of servants, such as clerks, shopmen, livery servants, or workmen in particular trades and manufactures not there enumerated. And it is justly remarked by Mr. Caldecot, that, if this was not taken as the true construction of the act, it would not be easy to suggest a reason why the legislature should, by particular acts of parliament, interpose in behalf of the workmen in the woollen, linen, cotton, iron, leather, fur, hemp, flax, mohair, silk, and other manufactures, if the same remedies were open to all descriptions of persons, and in every occupation under the general law. See *Cald.* 16.

Also, if a person retains a servant, and agrees to pay him so much by the day, month, or year, he may have an action against the master on the contract, or against his executors; and every such retainer will be presumed to be in consideration of wages, unless the contrary appears. 9 Co. 88. 2 Roll. Rep. 269.

III. *As to Misbehaviour of Workmen, and Differences between them and their Masters.*

Servant assaulting his master.

By 5 Eliz. c. 4. it is enacted, that if any servant, workman, or labourer shall wilfully or maliciously make an assault, or affray upon his master or mistress, or upon any other having charge or oversight over such servant, or labourer, or over the work wherein he is hired to work, and shall thereof be convicted before two justices, or mayor, or other head officer, by confession or oath of two witnesses, he shall be imprisoned for a year, or less, by the discretion of two justices out of a town corporate; and in a town corporate, of the mayor or other head officer,

officer, with two others of the discreetest persons of the same corporation; and if the offence require a further punishment, then to receive such other open punishment (so as it extend not to life or limb), as the justices in sessions, or the mayor, or other head officer, and six, or four at least, of the discreetest persons if the corporation shall think convenient, for the quality of the offence.

By 20. Geo. 2. c. 19. it shall be lawful for one justice, upon complaint made upon oath by any master or mistress, or employer, against any servant in husbandry, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or labourer, concerning any misdemeanor, miscarriage, or ill behaviour, in such service; to hear and determine the same, and to punish the offender by commitment to the house of correction, there to be corrected and held to hard labour for a reasonable time, not exceeding one calendar month; or by abating some part of his wages, or by discharging him from his service.

Complaint of
masters against
their servants.

And in like manner it shall be lawful for such justice, upon any complaint made upon oath by any such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, or other labourer, against such master, mistress, or employer, concerning any mis-usage, refusal of necessary provision, cruelty, or ill treatment, to summon such master, mistress, or employer, to appear before him at a reasonable time to be prefixed in such summons, and he shall examine into the matter of such complaint, whether such master, mistress, or employer, shall appear or not (proof being made upon oath of their being summoned) and upon the proof of the complaint upon oath, he may discharge such servant, or other person aforesaid, from his service and employment, which discharge shall be given under the hand and seal of such justice gratis.

Complaints of
servants against
their masters.

Also by 6 Geo. 3. c. 25. if any artificer, calico printer, handicraftsman, miner, collier, keelman, pitman, glass-

man, potter, labourer, or other person, shall contract with any person whomsoever, for any time whatsoever, and shall absent himself from service before the term shall be completed, or be guilty of any other misdemeanor, then any justice where such artificer, or person aforesaid, shall be found, upon complaint thereof made upon oath by the person with whom he shall have so contracted, or by his steward or agent, may issue his warrant for apprehending every such artificer, or person aforesaid, and examine into the complaint, and if it shall appear to such justice that he shall not have fulfilled such contract, or hath been guilty of any misdemeanor, such justice may commit such person to the house of correction for a term not exceeding three months, nor less than one month.

Nothing in the above act shall extend to the stannaries in Devonshire and Cornwall.

IV. *Of Artificers and Workmen in particular Manufactures.*

AS the statutes relating to workmen and others employed in the various branches of English manufacture are exceedingly numerous, and extend to a variety of objects, we shall divide this head into several distinct sections, and direct our enquiries

I. Concerning combinations amongst manufacturers and artificers.

II. Concerning embezzlements and other frauds committed by workmen on their masters, and

III. Of the payment of wages to manufacturers.

I. *As to Combinations amongst Artificers.*

1. Of combinations amongst artificers in general.

By the statute 2 and 3 Edw. 6. c. 15. it is enacted that if any artificers, workmen, or labourers do conspire, covenant, or promise together, or make any oaths, that they will not make or do their work but at a certain price,

price, or rate, or shall not enterprize or take upon them to finish what another hath begun, or shall do but a certain work in a day, or shall not work but at certain hours and times, such persons being convicted at the assizes, sessions, or court leet, shall forfeit for the first offence, 10*l.* to the king; and if he pay not the same within six days, shall suffer twenty days imprisonment, and shall have only bread and water for his subsistence; for the second offence, 20*l.* or, if not paid within 6 days, pillory: and for the third offence, 40*l.* loss of one ear, and to be deemed infamous.

Confederacies amongst workmen are also deemed highly criminal by the common law, and therefore journeymen confederating and refusing to work, unless for certain wages agreed upon amongst themselves, may be indicted and punished for a conspiracy, although the statutes regulating their work and wages do not direct such a mode of prosecution; for it is the conspiring, and not the refusal to work, which constitutes the offence (*a*). 8 *Mod.* 10.

And as a conspiracy is a *trespass*, it is enquirable into, and punishable by justices of the peace at their sessions.

3 *Bur.* 1321.

2. Of combinations amongst artificers of particular trades.

2. Combinations amongst artificers of particular trades

By 12 Geo. 1. c. 34. it is enacted, that all contracts, agreements, by-laws, orders, &c. made or entered into, in clubs, or societies, by persons exercising the art of a woolcomber, or weaver, or by journeymen in those trades, or (by 22 Geo. 2. c. 27) by any journeymen dyers or hotpressers, or other persons employed in any of the woollen manufactures; or by any persons, journeymen, or otherwise, employed in the making of felts or hats, or in any of the manufactures of silk, mohair, fur, hemp, flax, linen, cotton, fustian, iron, or leather, or of any

(*a*) Conspiracies of every kind are illegal, even though the things to be done may be lawful for the parties to do if they had not conspired to do them. 8 *Mod.* 10.

of the said materials, mixed with any other of them, in order or under pretence of regulating the said arts or trades, or for fixing the prices of goods therein, or for shortening their accustomed hours of work, shall, and are thereby declared to be, illegal, and null and void; and further, that if any such person shall keep up, sign, or knowingly be concerned in any contract, agreement, by-law, or order, of any club, or combination, by the said act declared to be illegal, or shall attempt to put any such illegal act into execution, the offender shall, on conviction (within three months after the offence) by the oath of one witness, before two justices of the peace, be committed either to the house of correction, and there kept to hard labour for a time not exceeding 3 months, or to the common county goal for a like period—with liberty of appeal to the quarter sessions if aggrieved.

But by 17 Geo. 3. c. 55. it is provided, that if any journeyman hatter, hatmaker, piece master, servant workman, or other person employed in manufacturing of hats, or felts, or in any branch of the said trade, shall be convicted in manner aforesaid, of the above offence; or of departing from his service before the end of the time for which he was hired, or of quitting or returning his work before the same shall be finished according to agreement; or of wilfully spoiling or destroying any goods, or work, in the said branches, such person so convicted, before he shall be entitled to appeal to the quarter sessions as allowed by 12 Geo. 1. shall enter into recognizance with two sureties, to prosecute such appeal, and if on such appeal being heard, the judgment of the justices of the peace be affirmed, such appellant shall immediately be committed to the sentence first awarded upon him, and pay such costs as the sessions may direct.

And it is further enacted by the said act, 17 Geo. 3. that if *any person whomsoever*, (whether employed in the said trade or not) shall attend any meeting, club, or combination by the said act declared to be illegal as aforesaid, or shall summon or require any journeyman hatter, or
other

other person employed in any branch of the said trade, to attend such meeting, or to pay any money as a fine, contribution, or subscription for the purposes of such club, or meeting; or any person collecting or receiving such money, or who shall persuade or endeavour to persuade, entice, inveigle, or intimidate, any person employed in the said trade to be a member of, or concerned in, any such club, &c. or unduly to quit the service of his master—Also any person paying any money, or subscription, towards the support or encouragement of any such club, or meeting; such person or persons so offending as aforesaid, shall, on conviction of such offence, before two justices of the peace (*a*), on the oath of one witness, be committed to the house of correction, or common county goal, without bail, for any time not longer than 3 months—With liberty to appeal under the before mentioned restrictions.

And by the said act of 12 Geo. 1. as extended by 22 Geo. 2. c. 27. it is enacted that if any person (whether employed in the aforesaid trades or not) shall assault any master woolcomber, or master weaver, or other person concerned in any of the woollen manufactures, or in the trades or arts of dyeing, hotpressing, making of hats or felts, or in any of the manufactures of silk, mohair, fur, hemp, flax, linen, cotton, fustian, iron, or leather, or in any manufacture wherein any of the said articles are mixed with the other of them, whereby such master shall receive any bodily hurt, for refusing to comply with the by-laws, orders, contracts, demands, &c. declared to be illegal as aforesaid; or if any person shall write, or send a message, threatening to hurt any such master, or other person aforesaid, or to burn or destroy their houses, cut down their trees, or maim their cattle, every such person so offending shall be guilty of felony, and be transported for the term of 7 years (*b*).

Assaulting or threatening masters who refuse to comply with the demands of workmen, felony.

(*a*) But by the same act it is very properly provided, that no master hat maker shall be one of the justices in cases relative to this or the former act.

(*b*) The indictment on this statute must be found within 12 calendar months after the commission of the offence.

II. Concerning

II. Concerning Embezzlements, and Frauds committed by Workmen on their Masters.

Embezzlements
and frauds by
workmen in the
woollen manu-
facture in parti-
cular.

1. Relative to the woollen manufactures in particular.

By 7 Jac. 1. c. 7. it is enacted, that if any sorter, carder, kember, spinster, weaver, or other person in the woollen manufacture, shall unjustly and deceitfully embezzle, sell, or detain any wool, or yarn, delivered to him or her, by any person making cloths or stuffs, such person so offending, as also the buyer and receiver thereof, (knowing the same) being thereof convicted by confession, or the oath of one witness, before two justices of the peace, or if within a town corporate, before the mayor, or other chief officer, and one of the aldermen, or most substantial person in such place, shall make the party aggrieved such satisfaction as the said justices or other chief officer shall order; and if the person so offending be unable or refuse to make satisfaction, he shall, for the first offence, be whipped, and set in the stocks, and for a second offence shall incur a further punishment by whipping and stocks, at the discretion of the said justices, or chief officers.

Spinners in
Essex.

And by sec. 4. of the above act it is provided, that if any spinner in *Essex*, shall receive wool to be spun into yarn, for any clothier or manufacturer of baize, says, or other stuffs, dwelling in *Cogshall, Bocking, Braintree, Halstead, Witham, or Colchester*, and shall deliver back such yarn by any shorter reel than is there used (a), shall be subject to a like penalty or punishment.

Embezzlement
of tools, or
materials,

And generally by 14 Geo. 3. c. 25. if any picker, scribbler, spinner, weaver, or other person employed in manufacturing of woollen cloth, or in preparing materials for that purpose, shall not return all working tools, wool, yarn, chain wool, or abb, delivered to them to be manufactured, and also all materials with which he or she shall be entrusted, or otherwise give a satisfactory account of the same, or if he shall fraudulently steal,

(a) i. e. Two yards round about.

damp,

damp, or water, the wool or yarn so delivered to him^a to be worked, or if any person shall take off, cut, or pick out, the list, forrel, or other mark of any piece of cloth, and shall of the said offence be convicted, by confession or the oath of one witness before a justice of the peace, he shall be committed to the house of correction for the space of one month.

And where any person so employed, who shall have been entrusted with any tools, wool, or other materials, and not have delivered or accounted for the same, shall abscond, or shall sell, or dispose thereof; or where any person shall fraudulently buy, or receive such tools, or materials, or where any person shall be charged on suspicion with having embezzled and kept back by damping, steaming or watering the wool or yarn delivered to them, or with having sold, bought, or received the same, and upon search any of the said working tools, wool, yarn, chain woof, or abb, or any cloth with the list, forrel, or other marks taken off, cut, or picked out, shall be found, the person on whom the same shall be so found, unless he can give a good account how he came thereby, to the satisfaction of a justice, shall, on conviction, suffer such punishment as is before directed to be inflicted on persons not returning tools or materials as aforesaid (a).

And if any ends of yarn, wefts, thrums, short yarn (b), or other refuse of close drugget, or of other woollen goods, or of goods mixed with wool (flocks and pinions excepted) above the weight of 3 pounds, be found on any person who shall not exculpate himself to the satisfaction of a justice, he shall thereupon suffer the same punishment as persons not returning tools or materials.

But if any person offending against this act shall be charged upon oath, of having been before convicted there-

(a) But by the same act, the person accused may appoint a reasonable time to produce those from whom he received the goods, or a witness to prove the sale or delivery, on entering into a recognizance, with two sureties, for that purpose; and if at such time appointed, such person shall be convicted of either of the offences aforesaid, he shall suffer the punishment before directed.

(b) See 1 Ann c. 18. *post*.

upon,

upon, the justice of the peace before whom he shall be so charged, shall commit him to the house of correction until the next general quarter sessions, (unless such person enter into recognizance with sureties, to appear and stand his trial at such sessions) when the matter shall be enquired of and determined in a summary way, and if the said offender shall be convicted of the said offence, he shall be committed to the house of correction for any term not exceeding 3 months; and if it shall appear to the justices that he hath been before convicted at a sessions of any offence against the said act, he shall be committed to the house of correction for a term not exceeding 6 calendar months, and be also once publicly whipped^(a).

Reeling false or short yarn.

By 14 Geo. 3. c. 44. it is enacted that if any person shall reel false or short yarn, and shall be convicted thereof by the oath or affirmation of the owner or any other credible witness, or by his own confession, before a justice, he shall, for the first offence, forfeit a sum not exceeding 20s. nor less than 5s.; for the second offence, a sum not exceeding 5*l*. nor less than 40s. and for every after offence he shall be committed to the house of correction to be kept to hard labour for the space of one month, and be once publicly whipped at the nearest market town to the place where the offence was committed: the whole of the pecuniary penalties to go to the party aggrieved; and by 15 Geo. 3. c. 14. the same may be levied by distress and sale: and if the offender have not goods sufficient to answer the said penalty, he shall be committed to the common county goal for the space of one calendar month—with liberty in all the above cases to appeal to the general quarter sessions.

Embezzlement and frauds in the woollen, linen, fustian, cotton, and iron manufacture.

2. Relative to the woollen manufacture, together with other manufactures mentioned in the margin.

It is enacted by 1 Ann. stat. 2. c. 18. That if any person employed in the working up the *woollen, linen, fustian, cot-*

^(a) Offences against the said act must be prosecuted within three months after the offence; and no order shall be quashed for want of form, or be removed into any of the courts at Westminster. s. 10.

son, or iron manufactures within the kingdom, shall embezzle, or purloin any wefts, thrums, or ends of yarn, or any materials of wool, hemp, flax, cotton, or iron, or (by 17 Geo. 3. c. 56) tools or implements which he shall have been entrusted with to work, or drugs or ingredients for dyeing the said materials, or shall reel false or short yarn (a), he shall, on conviction, by confession, or the oath of one witness before a justice of the peace, forfeit double the value of the damages done; or if he be unable to make sufficient satisfaction, he shall be publicly whipped, and kept to hard labour in the house of correction for a time not longer than 14 days (b).

And it is further provided, by 13 Geo. 2. c. 28. that if any person employed in the above mentioned manufactures, shall purloin, embezzle, secrete, sell, pawn, exchange, or otherwise illegally dispose of, any of the materials with which he shall be entrusted as aforesaid, or shall reel false or short yarn (c), he shall, on conviction in the manner before mentioned, forfeit double the value of the owner's damages, with such costs of prosecution as the justices shall think reasonable, and if the same be not immediately paid, he may be committed to the house of correction, and then whipped and kept to hard labour for the space of 14 days.

And in case of any second, or other offence in the matters aforesaid, the person so offending shall, for every such offence, forfeit four times the damages of the owner, with costs as aforesaid; and in case immediate payment be not made of such forfeitures, he shall be committed to the house of correction, and kept to hard labour for any time not exceeding 3 months, nor less than one month; and shall moreover, once or oftener, during such

Second offence.

(a) But see 14 Geo. 3. c. 44. ante p. 58 for the punishment of this offence.

(b) And persons buying and receiving such materials, shall incur like penalties. § 2.

(c) But for the penalties now inflicted on this offence, see 14 Geo. 3. c. 44. *sup.* p. 58.

confinement, be publicly whipped at the nearest market town (a).

*Hat, woollen,
&c. leather,
fur, hemp, flax,
mohair and silk.*

Also, by 22 Geo. 2. c. 27, and 17 Geo. 3. c. 56. extending and rendering more effectual the said act of 13 Geo. 2. it is enacted, that if any person employed in the making any felt or hat, or in working up or preparing any woollen, linen, fustian, iron, fur, hemp, flax, mohair, or silk, or any of those materials, mixed with others of them, shall put in, embezzle, secrete, sell, pawn, or exchange, or otherwise unlawfully dispose of, any of such materials, whether they be first wrought, or worked up or not, he shall, on conviction before *two* justices of the peace, by oath of the owner, or other witness, or by confession, be for the first offence committed to the house of correction, or public prison, there to be kept to hard labour, for not less than 14 days, nor more than 3 months; and also, if the justice deem it proper, be once publicly whipped.

Second offence.

And for a second, or oftener offence, in any of the matters aforesaid, he shall be committed to prison, or to the house of correction, for a term not exceeding six months, nor less than three; and also publicly whipped or not, at the discretion of the justice (b).

Neglect in returning materials not used.

And if any person, entrusted with any of the aforesaid materials, for the purpose of preparing or working them up, as before mentioned, shall neglect, for the space of eight days after such materials have been prepared or worked up, to return, at the request of the owner, so much of the same materials as shall not have been used or worked up, such neglect shall be considered as an embezzlement of the same, and the offender shall be liable to like penalties, as in such case is provided.

(a) Receivers are also subject to like penalties and punishment, *i. e.*—one moiety of the said penalties to be applied to the poor of the parish, and the other moiety to the party injured.

(b) The receivers of the materials, mentioned in this act, knowing them to be embezzled, are to forfeit, for the first offence, not less than 20*l.* nor more than 40*l.* and for a subsequent offence, not more than 100*l.* nor less than 50*l.*

And

And further by the said act of 17 *Geo.* 3. *c.* 56. if any person employed to prepare or work up any of the materials before enumerated, shall refuse or wilfully neglect, for the space of eight days, to prepare or work up the same; or having taken in any such materials for the purpose of manufacturing the same, from one master, (or two or more being partners) shall afterwards, within eight days before the completion of the materials so taken in, take in, or employ himself in manufacturing, any other materials for the like purpose, from any other master, such person, being thereof convicted, by the oath of one witness, before two justices, shall be committed to the house of correction, and there kept to hard labour, for a term not less than one month, nor more than three months.

Not working up materials, or taking in work from several masters.

And further, if any person shall take in any of the materials aforesaid, under promise, or apparently in order to manufacture them himself, and shall afterwards, without the consent of the owner, put out the same, or any part thereof, to be manufactured by any other person; or if any other person, ordered to deliver such materials to one person, to be manufactured, shall deliver the same to any other person; every such offender shall be liable to the same penalties as is directed to be inflicted by the last section on persons neglecting the performance of their work (*a*). And by 12 *Geo.* 1. *c.* 34. and 22 *Geo.* 2. *c.* 27. if any person, retained in any of the aforesaid arts, shall depart from his employment, before the time agreed upon, or if he shall quit or return his work before it is finished, according to agreement, (unless for cause to be allowed of by two justices) he shall, on conviction before two justices of the peace, be

(*a*) And the owners of such materials, are, by this act, empowered to enter, at all seasonable times in the day time, into the shops or outhouses of any person by them employed to manufacture the same; and if any workman refuse to admit the owner of such materials, he shall forfeit a sum not exceeding 40s. nor less than 10s. at the discretion of a justice, § 15.

committed

committed to the house of correction, to hard labour, for a term not exceeding three months.

Or if any person so employed, shall wilfully destroy or damage any materials or work entrusted to his care, he shall, on conviction as aforesaid, forfeit double the value to the owner, to be levied by distress and sale; and in failure of distress, be in like manner committed for a term not exceeding three months.

Dyeing materials.

And by 17 Geo 3. c. 16. it is enacted, that any journeymen dyer or apprentice, who shall be employed in dying of any felt or hat, or of any woollen, linen, fustian, cotton, leather, fur, flax, mohair, or silk materials, whether wrought or not, or mixed or not, with other materials, and shall dye any of the said materials, without the consent of his master, or shall, without such consent, take in any such materials, for the purpose of dyeing the same, he shall, on conviction, for the first offence, forfeit the sum of 10s. and for the second offence 20s. and for every subsequent offence, the sum of 40s. (a); the said penalties to be paid to the informer; and in default of payment, the offender to be committed to the common goal, or house of correction, for a time not longer than one month.

In all the aforesaid cases, the party, if aggrieved, may appeal to the next general quarter sessions.

Observation.

Note. Besides the above general statutes, which are applicable to manufacturers in all parts of the kingdom, there have been some particular acts passed for the regulation of manufacturers employed in the wool-combing and worsted trades, which are confined in their operation to particular counties and places; but to give a separate abstract of each of these, would be swelling our treatise to an inconvenient length, and be useful only to the inhabitants of those particular districts; we shall, therefore, barely enumerate them, for the purpose of

(a) Penalties are also recoverable of those who employ journeymen, &c. to dye materials, without the master's knowledge, viz. for the first offence 5s. for the second 20s. and for every subsequent offence 4l.

enabling

enabling those whom they may concern, more readily to refer to them—they are principally

17 *Geo. 3. c. 11.* relating to the counties of *York, Lancashire, and Chester.*

24 *Geo. 3. c. 3.* applying to the county of *Suffolk* only.

25 *Geo. 3. c. 40.* extending to the counties of *Bedford, Huntingdon, Northampton, Leicesters, Rutland, and Lincoln,* and to the *Isle of Ely*—and

31 *Geo. 3. c. 56.* referring to the county of *Norfolk,* and city of *Norwich.*

We shall now proceed to acts, 3. relative to the leather manufactures in particular.

By 13 *Geo. 2. c. 8.* it is enacted, that if any person, who is employed in the manufacture of gloves, breeches, boots, shoes, slippers, leather wares, or other goods or materials used in such manufactures, shall fraudulently embezzle, secrete, sell, pawn, or exchange, any of the materials with which he shall be entrusted to work, or any goods or wares when made, or shall in any way wilfully injure or damage the same materials or wares, he shall, on conviction before a justice of the peace, by the oath of his master, or the owner, or any other credible witness, or by confession, be made to give satisfaction for the goods or materials so embezzled or damaged, not exceeding double the value of the same, together with the charge of conviction; one half of the penalties to go to the party aggrieved, and the other to the poor of the parish: and if the said penalties be not immediately paid, such offenders shall be committed to the house of correction, or county goal, and there kept to hard labour, for 14 days; and also whipped, if the justice so order.

And in case of a second or other like offence, such offender shall, on conviction, in manner aforesaid, forfeit for each offence four times the value of the goods embezzled or damaged, with the costs of conviction; and in case of non-payment, shall be committed to the house of correction or public prison, and kept to hard labour, for

3. Embezzlements, &c. in the leather manufactures in particular.

Second offence.

for a term not exceeding three months, nor less than one; and also once or oftener be publicly whipped (a).

Working for
other masters.

And further, if any person employed in making any gloves, or other the wares or goods aforesaid, for one master, and shall neglect to complete the same, by hiring himself to another master, he shall be sent to the house of correction, and kept to hard labour, for a time not exceeding one month. Liberty of appeal, if aggrieved, to the general quarter sessions.

Bills of morta-
lity.

And in respect to the bills of mortality in particular, it is enacted by 9 Geo. 1. c. 27. that if any journeyman shoemaker, *within the bills of mortality*, shall fraudulently purloin, sell, pawn, or exchange, any boots, shoes, slippers, cut leather, lace, lasts, or other materials of his employer, he shall, on conviction, by the oath of one witness, or confession, before a justice, be ordered to make satisfaction for the same; and if he refuse or neglect so to do, he shall be whipped in the parish where the offence was committed.

And for every other, after a first offence, he shall be committed to the house of correction, and there confined to hard labour, for a time not exceeding one month, nor less than 14 days.

4. Embezzle-
ments, &c. in
the silk manu-
factory in par-
ticular.

4. Relative to the silk manufacture in particular.

By 13 and 14 Car. 2. c. 15. it is enacted, that if any silk winder or doubler shall embezzle, pawn, sell, or detain, any silk delivered him to wind or double, he shall, on conviction, by confession, or by the oath of one witness, before a justice of the peace, or mayor or other head officer of a city or town corporate, give such satisfaction for damages sustained, and charges on conviction, as the justice or head officer aforesaid shall direct, so that the same do not exceed the damage sustained; and in default of satisfaction, made within 14 days after conviction, he shall, for the first offence, be whipped or set in the stocks; and for any subsequent offence, be pu-

(a) Persons knowingly receiving goods so embezzled, are liable to like penalties and punishment, § 6

nished

nished in such manner, by whipping or being placed in the stocks, as the said justice or officer shall order.

5. Relative to clock and watch manufacture in particular.

5. Embezzlements, &c. in clock and watch manufacture.

By 27 Geo. 2. c. 7. it is enacted, that any person, who shall be employed by persons exercising the trade or art of clock or watch-making, or any branch of such trade, to make, finish, alter, repair, or clean, any clock or watch, or any part thereof, or who shall be entrusted by his employer with any gold, silver, or other metal or mineral, that shall, in whole or in part, be wrought for any part of a clock or watch, or with any precious stone, set, or to be set, in or about any clock or watch, and shall purloin, embezzle, secrete, sell, pawn, exchange, or otherwise unlawfully dispose thereof, such offender, being convicted before a justice, by the oath of one witness, or by confession, shall, for the first offence, forfeit the sum of £.20; and if the sum be not forthwith paid, he shall be committed to the house of correction, or other public prison, and there kept to hard labour for 14 days, unless the said forfeiture be sooner paid; and if the same be not paid within two days before the expiration of such 14 days, he may be publicly whipped, at the discretion of the justice.

And for every subsequent offence, the said offender shall forfeit the sum of £.40, which, if not forthwith paid, he shall be committed to the house of correction, or public prison, and there kept to hard labour, for a time not exceeding three months, nor less than one; and if the same be not paid within seven days before the expiration of the time for which such offender shall have been committed, the justice may order him to be publicly whipped twice or oftener, at his discretion (a).

Second offence.

III. *Of the Payment of Wages to Manufacturers.*

By 4 Ed. 4. c. 1. it is enacted, that every cloth-maker shall pay to the carders, spinsters, and all other labour-

Payment of wages. Clothiers, &c;

(a) Buyers or receivers are subjected to like penalties and punishment.

ers, whom he may employ in his trade, their wages agreed upon in *money* only, upon pain of forfeiting to his labourers treble their wages.

Woollen manu-
facturers.

And by 1. Ann. ft. 2. c. 18. all payments of wages to workmen employed in the woollen manufactures, shall be in money, and not in cloth, victuals, or commodities, upon pain of forfeiting double wages to such workmen.

And by 10. Ann. c. 16. the same requisition is enforced under the penalty of 20s. and by 1 Geo. 1. ft. 2. c. 15. under the penalty of 40s.

Also by 12 Geo. 1. c. 34. it is enacted, that every clothier, serge-maker, or worsted or woollen stuff-maker, or persons employed in making any woollen cloths, serges, or stuffs, or concerned in employing wool-combers, combers of Jersey, frame-work knitters, makers of stockings, weavers, or other labourers in the woollen manufactory, shall pay all persons by them employed (extended by 22 Geo. 2. c. 27. to journeymen dyers, journeymen hot-pressers, and all other persons employed in any of the woollen manufactures) and also to those employed in making of felts or hats, or in any of the manufactures of silk, mohair, fur, hemp, flax, linen, cotton, fustian, iron, or leather, or any of the said materials mixed with one another, full wages agreed on in money, and shall not pay the same in goods, or by way of tuck, or in any other manner, or make any deduction, on account of any goods sold previous to such agreement, under the penalty of 10*l.* half to the informer, and half to the party aggrieved.

And further by 29 Geo. 2. c. 33. it is enacted, that if any clothier, serge-maker, woollen or stuff-maker, worsted or woollen yarn stocking-maker, or person concerned in making any woollen cloths, serges, stuffs, worsted or woollen yarn stockings, or any other person concerned for himself or another, in employing weavers, combers of Jersey, or wool, worsted combers, spinners, knitters, or other labourers in the woollen manufactures, shall pay any person, by him employed, his wages, or
other

other price, in goods, or by way of tuck, bill, or note, or in any other manner than in money, every such offender shall forfeit the sum of 20*l.* (a)—Liberty to appeal at the general quarter sessions, if aggrieved.

And by 30 Geo. 2. *c.* 12. it is provided that if any clothier, or maker of mixed, medley, or white broad-cloth, shall neglect to pay to the weavers, employed by him, their wages or price in money, within two days next after their work be completed and delivered (provided the same be demanded) he shall forfeit, for every such offence, the sum of 40*s.* to be recovered in like manner as the penalties of 29 Geo. 2. *c.* 33.

Also by 13 Geo. 2. *c.* 8. it is enacted that all payments to workmen, employed in manufacturing leather gloves, breeches, boots, shoes, slippers, wares, or other goods or materials, used in any of those trades, shall be in lawful coin only, and not by any victuals or commodities, except by their request.

Leathern manufacture.

And further by 13 Geo. 3. *c.* 68. and 22 Geo. 3. *c.* 44. the wages of journeymen weavers, in the silk manufacture, or in any of the manufactures of silk wrought up with any other materials, within the city of *London*, shall be settled by the lord mayor, recorder, and aldermen of the said city; and in the county of *Middlesex*, by the justices of the said county. And if any master weaver shall give more or less wages to any journeymen weavers, than shall be allowed, he shall, on being convicted thereof, before two justices, on the oath of one witness, forfeit the sum of 50*l.* to be levied by distress and sale. The said penalty to be paid to the master of the company, and distributed to distressed journeymen weavers, or their families.

Silk manufacture.

(a) The penalties of this act may be recovered by action of debt, by any person suing for the same; or they may be levied by distress on a justice's warrant—a moiety payable to the poor, and a moiety to the informer. The offence must be prosecuted within three months.

CHAP. IV.

An Abstract of an Act, passed in the 34th Year of our Sovereign King George the Third, for granting to his said Majesty certain Stamp Duties on Indentures of Clerkship, for the Purpose of Admission to be Solicitors and Attornies in any of the Courts of Westminster, or Courts of Great Sessions in Wales.

Duty on articles
of clerkship.

BY the said act it is enacted, *Sec. 1.* that from and after the 5th day of *February*, in the year of our Lord 1794, within the bills of mortality, and the 10th day of the same month of *February*, in any other part of *England* and *Wales*, there shall be levied the additional duties following, (that is to say) For every contract made or entered into, whereby any person is bound to serve as a clerk, in order to his admission as a solicitor or attorney, in any court at *Westminster*, there shall be charged a stamp duty of 100*l.* and for every such contract, whereby any person is bound to serve as a clerk, in order to his admission as a solicitor or attorney, in any of the courts of great sessions in *Wales*, or in the counties palatine of *Chester*, *Lancaster*, or *Durham*, or in any court of record in *England* holding pleas, where the debt or damage shall amount to the sum of 40*s.* there shall be charged a stamp duty of 50*l.*

Enrollment of
articles.

Sec. 2. No person, who by any such contract is bound to serve as a clerk, shall be admitted to be a solicitor or attorney, unless the said contract shall be enrolled with the proper officer, in the court wherein he shall propose to be afterwards admitted, with an affidavit of the time of the execution of the said contract; and if such enrollment be neglected for the space of six months after execution, the service of such clerk shall be deemed to commence from the time of such enrollment only, and not from the time of execution.

Affidavit of
payment of
duty.

Sec. 3. Every such clerk, before he shall be permitted to practice or be enrolled, shall make an affidavit of the due payment of the duty, and insert therein the sum paid in

in respect thereof; and shall specify the name and place of abode of the person with whom the contract of service was entered into, and also the time of its execution, and the time of its enrollment; and in case he shall have been previously admitted in some other court, shall also specify, in such affidavit, the court in which he has been so admitted, and the time of his admission; and shall cause the same to be duly filed in the court in which he proposes to be admitted; and every such affidavit shall be produced, and openly read in court, before he shall be enrolled.

Sec. 4. In case any person, not admitted in one of the courts of great sessions in *Wales*, or of the counties palatine of *Chester*, *Lancaster*, or *Durham*, or in some other court of record in *England*, where attornies have been usually admitted, by virtue of a contract made before the 5th and 10th of February 1794, shall, either in his own name, or in the name of any other, sue out any writ or process, or prosecute, or defend, any action, in any of the courts at *Westminster*, without being admitted and enrolled an attorney or solicitor, in one of the said courts, he shall forfeit the sum of 100*l.* one moiety thereof to the use of his majesty, and the other, with costs, to the prosecutor; and such person shall be incapable of maintaining any action for any fees, on account of any such proceeding.

Penalty for practising without admission.

Sec. 5. Persons admitted in any court at *Westminster*, who shall have paid the duty of 100*l.* may be admitted in any other of the before-mentioned courts, without payment of any further duty.

Admission in one court sufficient.

Sec. 6. Persons admitted in any of the courts of great sessions in *Wales*, or in any court in the *Counties Palatine*, or in any inferior court, who shall have paid the duty of 50*l.* may be admitted in any of the courts aforesaid (except the courts at *Westminster*) without the payment of any further duty.

Persons admitted in *Wales*, and palatine counties.

Sec. 7. Any person, who shall have been admitted in any of the courts aforesaid, by virtue of any contract made

Contracts before 5th or 10th of Feb. 1794, not subject to the duty.

made prior to February the 5th and 10th, 1794, may be admitted without payment of the duty hereby imposed.

Residuary
contracts.

Sec. 8. If any person, having been articulated for five years, and having paid the duty, shall, before the expiration of such term, enter into any subsequent contract with any other master, to serve him as his clerk for the residue of his term, he shall not be again charged with the said duty.

Duties to be un-
der commission-
ers of stamps.

Sec. 9. The duties shall be under the management of the commissioners for stamps, who shall employ the necessary officers, provide stamps, and do all other things necessary for putting this act into execution.

Contracts to be
stamped before
engrossed.

Sec. 10. The parchment, vellum, or paper contracts, liable to the said duties, shall, before the same shall be engrossed, be brought to the Stamp-office to be stamped; the persons bringing the same, paying the said duties.

Duplicate may
be stamped after
engrossed.

Sec. 11. Where any contract shall be made by indentures of different parts, it shall be sufficient to stamp one part only; and the duplicate shall be stamped after execution, on sufficient proof being made, to the satisfaction of the commissioner, of the due payment of the duties.

Prompt pay-
ment of duty.

Sec. 12. The usual allowance shall be made for prompt payment of the duties.

Commissioners
may alter
stamps.
Counterfeiting
stamps.

Sec. 13. The commissioners may alter and renew the stamps hereby directed to be used.

Sec. 14. If any person shall counterfeit any stamp or mark, directed to be used by this act, or shall utter or sell any parchment or paper, with such counterfeit stamp, with a fraudulent intent, he shall suffer death.

Penalties of
former acts to
extend to this.

Sec. 15. The powers and penalties prescribed by former acts, relating to stamp duties, shall extend to this act.

Where duty
to be paid, &c.

Sec. 16. The duties hereby imposed, shall be paid to the receiver-general of the stamp duties, who shall pay the same (after the necessary charges deducted) into the Exchequer, to be carried to the consolidated fund.

Sec. 17. The money arising by such duties, shall be deemed an addition made to the revenue, for defraying the

MASTERS *and* SERVANTS.

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the increased charge occasioned by any loan of this session, and shall, for ten years, be paid into the Exchequer, apart from all other branches of the public revenues; and there shall be kept, in the Auditor's-office, a book, in which such money shall be entered.

Sec. 18. If any person shall be sued on this act, he may plead the general issue, and give the special matter in evidence for his defence; and if, upon the trial, a verdict shall pass for the defendant, or the plaintiff become nonsuited, he shall have treble costs.

General issue
may be pleaded.

A P P E N D I X

O F

P R E C E D E N T S.

N^o I. A R T I C L E S.

1. *An Indenture of Apprenticeship, in which the Apprentice binds himself to a Surveyor and Builder; with many special Provisions.*

THIS indenture, made the day of in the thirty-second year of the reign of our Sovereign Lord George the Third, by the Grace of God of Great-Britain, France, and Ireland, King, Defender of the Faith, &c. and in the year of our Lord one thousand seven hundred and ninety-two, between *William Lyons*, of *London-street, Tottenham-court-road*, in the county of *Middlesex*, Gentleman, of the one part; and *Thomas Nagger*, of *High-street*, in the parish of *St. Mary-le-bone*, in the said county of *Middlesex*, Architect, of the other part, witnesseth, that the said *William Lyons*, of his own free will and accord, testified by his sealing and delivering these presents, hath put and bound himself apprentice to the said *Thomas Nagger*, to be taught and instructed in the several trades, businesses, or employments of an architect and a surveyor, from the day of the date of these presents, unto the full end and term of four years from thence next ensuing. And that the said *Thomas Nagger*, in consideration of the sum

of one hundred pounds, of good and lawful money of *Great-Britain*, to him in hand well and truly paid, by the said *William Lyons*, at or before the sealing and delivering of these presents, the receipt whereof the said *Thomas Nagger* doth hereby acknowledge, and of and from the same, and every part thereof, doth acquit and discharge the said *William Lyons*, his executors, administrators, and assigns, by these presents, hath (testified by his sealing and delivery hereof) agreed to take and accept of the said *William Lyons* as his apprentice, during the said term. And the said *William Lyons* doth hereby covenant, promise, and agree to and with the said *Thomas Nagger*, his executors and administrators, that he, the said *William Lyons*, shall and will, during all the said term of four years, well and truly serve the said *Thomas Nagger*, as an apprentice in the said trades or businesses of an architect and a surveyor, diligently attending to the business and concerns of his said master, from the hour of nine o'clock in the morning, until the hour of seven o'clock in the evening, save and except an interval of two hours, which is to be allowed the said *William Lyons* to dine; doing no damage or injury to his said master, nor knowingly suffering the same to be done without acquainting his said master therewith; but shall and will in all respects acquit and demean himself as an honest and faithful apprentice ought to do. And the said *Thomas Nagger* doth hereby, for himself, his executors, and administrators, covenant, promise, and agree to and with the said *William Lyons*, his executors, administrators, and assigns, in manner following—(that is to say) that he, the said *Thomas Nagger*, according to the best of his power, skill, and knowledge, shall and will, during the said term of four years, teach and instruct, or cause to be taught and instructed, the said *William Lyons*, in the two several trades, businesses, or employments of an architect and a surveyor, and in all things whatsoever, incident and belonging thereto, in such manner as he, the said *Thomas Nagger*, now, or at any time hereafter, during the said term, shall use or practise the same. And further, that he, the said *Thomas Nagger*, shall and will well and truly pay, or cause to be paid, unto the said *William Lyons*, or his assigns, during the said term of four

Covenant that master will properly instruct apprentice.

And that he will pay certain allowances in lieu of board-ing in his family.

years, or during so much thereof as the said *William Lyons* shall continue his apprenticeship, as aforesaid, the several sums of money, and chargeable at the several times, herein after mentioned, in lieu and full satisfaction of the board and lodging of the said *William Lyons*, during the said term (that is to say) the sum of thirty-five pounds, of lawful money of *Great-Britain*, for the first year of the said term; the sum of forty pounds of like lawful money, for the second year of the said term; the sum of forty-five pounds of like lawful money, for the third year of the said term; and the sum of fifty pounds, for the fourth and last year of the said term, (unless the said apprenticeship be sooner determined at such request of the said *William Lyons*, as is herein after mentioned, in which case the said sum of fifty pounds last mentioned shall not be paid or payable), together with a proportionable part of either of the said sums which may happen to be due at any sooner determination of the said apprenticeship, to be computed from the last quarterly day of payment thereof, up to the day of such determination; the said several and respective sums of thirty-five pounds, forty pounds, forty-five pounds, and fifty pounds, to be paid and payable by four equal quarterly payments, on the twenty-fifth day of *December*, the twenty-fifth day of *March*, the twenty-fourth day of *June*, and the twenty-ninth day of *September*, in every year, the first payment thereof (or of such proportional part of the said sum of thirty-five pounds, as shall be then due) to begin and to be made on the twenty-fifth day of *December*, now next ensuing; the same to be free and clear of all manner of deductions whatsoever; which said several and respective sums of thirty-five pounds, forty pounds, forty-five pounds, and fifty pounds, the said *William Lyons* doth hereby, for himself, his executors, administrators, and assigns, covenant and agree to and with the said *Thomas Nagger*, his executors, and administrators, to take and accept, in lieu of, and in full satisfaction for, his board and lodging, during the said term, as aforesaid. And moreover the said *Thomas Nagger* doth hereby, for himself, his executors, and administrators, covenant, promise, and agree to and with the said *William Lyons*, his executors, administrators, and assigns, that if the said *William Lyons* shall hap-

Covenant that in case of apprentice's death master will return a part of premium.

Covenant that master will not require more than eight hours a day attendance.

Covenant that master will permit apprentice to quit him at the end of three years.

Covenant that in case of masters death executors shall provide apprentice a new master.

pen to depart this life, at any time within twelve calendar months, to be accounted from the date of these presents, he, the said *Thomas Nagger*, his executors or administrators, shall and will return and pay unto the executors, administrators, or assigns of the said *William Lyons*, fifty pounds of the said sum of one hundred pounds, paid by him to the said *Thomas Nagger* as aforesaid. And further, that he the said *Thomas Nagger*, his executors, administrators, or assigns, will not require or call upon the said *William Lyons* to attend to the business or concerns of the said *Thomas Nagger*, his executors, administrators, or assigns, any more than eight hours in one and the same day, namely, from the hour of nine o'clock in the morning, until the hour of seven o'clock in the afternoon, as herein before is expressed, unless the said *William Lyons* unavoidably be longer engaged about the proper business of the said *Thomas Nagger*, out of his office or accounting-house; and in case the said *William Lyons* shall be so employed, it is hereby declared and agreed, that all extraordinary expences which he shall be necessarily put to on such account, shall be borne and paid by the said *Thomas Nagger*, his executors, administrators, or assigns. And the said *Thomas Nagger* doth hereby, for himself, his executors, and administrators, further expressly covenant, promise, and declare to and with the said *William Lyons*, his executors, and assigns, that he will permit and suffer the said *William Lyons*, if he shall think fit and require it, freely to depart from and leave the service of him the said *Thomas Nagger*, his executors, administrators, or assigns, at the expiration of the term of three years of the said term of four years, herein before-mentioned, and use and employ the remaining-year of his said apprenticeship to his own benefit and advantage, when and as he shall think fit, without any hindrance or molestation of or by the said *Thomas Nagger*, his executors, administrators, or assigns, or either of them, upon express condition, nevertheless, that the said *William Lyons* shall not in that case claim any part of the said sum of fifty pounds, herein before stipulated, to be paid by the said *Thomas Nagger*, for the fourth year of his apprenticeship, these presents, or any thing herein contained to the contrary thereof in any wise notwithstanding. And it is hereby mutually agreed

and declared, by and between the parties to these presents, that in case the said *Thomas Nagger* shall happen to die before the end of the apprenticeship of the said *William Lyons*, that then and in such case the executors or administrators of him the said *Thomas Nagger*, shall and will, as soon as may be after his death, find and provide a new and other proper master, being an architect and a surveyor; and at their own charge, and without delay, turn over the said *William Lyons* to such new master, for the residue which shall be then unexpired of the term of his apprenticeship, upon the same terms, or upon terms equally advantageous to the said *William Lyons*, as are contained in this indenture; and in default of so doing, they, the said executors or administrators of the said *Thomas Nagger*, shall and will pay unto the said *William Lyons*, his executors, administrators, or assigns, the sum of twenty pounds for each and every year of the said term of four years, which shall so remain unexpired. And lastly, for the true performance of the several covenants and agreements herein before-mentioned and contained on the respective parts of each of them the said *William Lyons* and *Thomas Nagger*, their executors and administrators, to be taught, served, paid, done, and performed, in manner before-mentioned, and according to the true intent and meaning of these presents, they, the said *William Lyons* and *Thomas Nagger*, do bind themselves unto each other, and unto the executors, administrators, and assigns, of each other, in the sum of one hundred pounds of lawful money of *Great-Britain*, firmly by these presents: In witness whereof they have, each to two parts hereof, set their hands and seals the day and year first above written.

Covenant for
performance of
agreement.

William Lyons, (Seal.)

Thomas Nagger, (Seal.)

Sealed and delivered in the presence of

Abraham Pateman, } of *London-street* aforesaid.
William Foley, }

2. *Another, in a shorter Form.*

THIS indenture, made the eighth day of *February*, in the twenty-seventh year of the reign, &c. and in the year of our Lord one thousand seven hundred and eighty-seven, between *Samuel Jenkinson* (son of *Daniel Jenkinson*, of *Caen Wood*, in the parish of *St. Pancras*, in the county of *Middlesex*, farmer) and the said *Daniel Jenkinson*, of the one part, and *James Asbley*, of *Grafton-street*, in the parish of *Saint Clement Danes*, in the said county of *Middlesex*, surveyor, of the other part, Witnesseth, that the said *Samuel Jenkinson*, by and with the consent of his said father, *Daniel Jenkinson*, testified by his being party to and executing these presents, hath placed and bound himself apprentice to the said *James Asbley*, to be taught in the science, profession, or business of a surveyor, in all its branches, which the said *James Asbley* now useth, or shall use or practise, and with him as an apprentice to serve from the day of the date hereof, until the thirtieth day of *June*, which will be in the year of our Lord one thousand seven hundred and ninety, during all which said time, the said apprentice his said master well and faithfully shall serve, his secrets keep, his lawful commands every where gladly do, hurt to his said master he shall not do, nor willingly suffer to be done by others, but the same to his power shall let, or forthwith give notice thereof to his said master; the goods, monies, or effects of his said master, he shall not embezzle or waste, nor lend them, without his consent, to any; at cards, dice, or any other unlawful games, he shall not play; taverns or ale-houses he shall not haunt or frequent; fornication he shall not commit; matrimony he shall not contract; from the service of his said master he shall not at any time depart or absent himself, without his said master's leave; but in all things as a good and faithful apprentice shall and will demean and behave himself towards his said master, and all his, during the said time; and the said master, in consideration of the sum of sixty pounds of lawful money of *Great-Britain*, to him in hand well and truly paid by the said *Daniel Jenkinson*, the receipt whereof he doth

hereby admit and acknowledge, his said apprentice the said science or business of a surveyor, as aforesaid, with all things thereto belonging, shall and will teach and instruct, or otherwise cause to be taught and instructed, after the best way and manner that he can and shall and will teach and instruct, or cause to be taught or instructed, the said apprentice the art or science of a surveyor, by instructing him to draw architecture and of measuring artificers work, and settling workmen's bills, and also the manner of keeping accounts, after the Italian form; and shall and will also find and allow unto the said apprentice sufficient meat, drink, and lodging, during the said times, fit for such an apprentice; and that the said *Daniel Jenkinson* shall and will find and provide his said son *Samuel Jenkinson* with all cloaths, both linen and woollen, washing, and all and every other necessities (except his board and lodging); and it is hereby declared and agreed, by and between the said parties to these presents, that in case the said *James Ashley* should happen to die within the first or second year from the date hereof, his executors or administrators shall and will pay or refund unto the said *Daniel Jenkinson*, his executors or administrators, the sum of twenty pounds, part of the said sum of sixty pounds; and for the true performance of all and every the several matters and things herein contained, the said *Daniel Jenkinson* and *James Ashley* bind themselves, and each binds himself to the other, in the sum of one hundred pounds: In witness whereof the said parties to these presents have hereunto set their hands and seals, the day and year first above-written.

Covenant to refund part of premium in case of master's death.

Daniel Jenkinson, (Seal.)

Samuel Jenkinson, (Seal.)

James Ashley, (Seal.)

Sealed and delivered in the presence of

Thomas Gage, } of *Grafton-street* aforesaid.
Pen. Lyons,

3. *Articles of Clerkship with an Attorney or Solicitor, where the Clerk is put out by his Father.*

Father cove-
nants for his
son's due ser-
vice.

For a term of
six years.

And that he
will not destroy
papers, &c.

ARTICLES of agreement, indented, made, concluded, and agreed upon this twenty-sixth day of *July*, in the year of our Lord One Thousand Seven Hundred and Eighty-three, by and between *Augustus Hamet*, of *Lincoln's-Inn*, in the county of *Middlesex*, Gentleman, of the one part; and *Joseph Jones*, of the *Inner Temple*, *London*, Gentleman, and *James Jones*, son of the said *Joseph Jones*, of the other part, as followeth— That is to say, the said *Joseph Jones*, for himself, his heirs, executors, and administrators, doth covenant, promise, grant, and agree to and with the said *Augustus Hamet*, his executors, administrators, and assigns, in manner and form following, that is to say, that for and in consideration of the said *Augustus Hamet's* accepting of the said *James Jones* into his service, as his clerk, and in consideration of the sum of two hundred pounds of lawful money of *Great-Britain*, in hand paid to the said *Augustus Hamet*, by the said *Joseph Jones*, the receipt of which said sum, he the said *Augustus Hamet* doth hereby acknowledge, and also in consideration of the covenants and agreements herein after in these presents mentioned, on the part and behalf of the said *Augustus Hamet*, his executors, and administrators, to be performed, fulfilled, and kept, he the said *James Jones* shall and will well, faithfully, and diligently serve him the said *Augustus Hamet*, as his clerk, in the practice and profession which he the said *Augustus Hamet* now follows of an attorney or solicitor in his Majesty's Courts of King's Bench and Exchequer, at *Westminster*, from the day of the date hereof, for and during the term of six years from thence next ensuing, and fully to be complete and ended; and that without the wilful or negligent cancelling, obliterating, spoiling, losing, embezzling, lending, spending, or making away with any of the books, papers, deeds, writings, monies, or other goods or chattels of the said *Augustus Hamet*, his executors or administrators, or the books, papers, deeds, writings, monies,

administrators, or the books, papers, deeds, writings, monies, goods or chattels of any other person or persons, committed to the custody or care of the said *Augustus Hamet*, or of the said *James Jones*, as his clerk. And further, that the said *Joseph Jones*, his executors or administrators, shall and will, from time to time, and at all times hereafter, during the said term of six years, at his and their own proper costs and charges, find and provide for the said *James Jones*, during the said term, all manner of cloaths and apparel, both linen, woollen, and otherwise, fit for the use and wear of the said *James Jones*, as clerk to the said *Augustus Hamet* as aforesaid; and also washing, mending, and repairing thereof; and the said *James Jones* doth hereby promise and agree to serve the said *Augustus Hamet*, during the said term, in manner above specified. And further, the said *Joseph Jones* shall and will, within the time appointed by Act of Parliament, pay to his Majesty's revenue of the stamp duties, the tax or duties imposed upon monies given with clerks and apprentices, and indemnify and save harmless the said *Augustus Hamet*, his executors and administrators, of and from the same in every respect. In consideration of which true and faithful service, to be performed and done by the said *James Jones*, and of the performance of the covenants and agreements, and other the matters and things herein before specified, according to the true intent and meaning of these presents, he the said *Augustus Hamet*, for himself, his executors, administrators, and assigns, doth covenant, promise, and agree to and with the said *Joseph Jones*, his executors, administrators, and assigns, by these presents, in manner and form following, that is to say, that he the said *Augustus Hamet* shall and will, during all the aforesaid term of six years, find and provide for the said *James Jones* good, sufficient, and convenient diet and lodging; and also shall and will, by the best means in his power, and according to the best of his skill and knowledge, teach and instruct him the said *James Jones* in the profession, business and practice of an attorney and solicitor, in his Majesty's courts at *Westminster*, or elsewhere, and shall and will, at the expiration of the said term, use his best endeavours (at the request, costs, and charges of the said *James Jones*, to cause and procure

And for providing cloaths and washing.

Son agrees to serve.

Father covenants to pay the duty.

Master covenants to provide board and lodging.

And to instruct him in his profession.

And procure his admittance.

Also not to assign him over without consent

And that his executors shall repay part of the premium in case of his death

Penalty for non-observance of covenants

him to be admitted and sworn an attorney and solicitor of his said Majesty's courts of King's-bench, and Exchequer, or such other of his Majesty's courts at *Westminster*, as the said *James Jones* shall think fit to be admitted an attorney or solicitor of. And further, that the said *Augustus Hamet* shall not nor will within the said time or term of six years assign or turn over the said *James Jones* to any attorney or solicitor, or to any other person or persons whomsoever, without the knowledge, consent, and approbation of the said *Joseph Jones*, his executors and administrators, or the direction of his Majesty's courts at *Westminster*, for the remainder or any other part of the aforesaid term. And further, that in case the said *Augustus Hamet* shall die before the expiration of the said term of six years, the executors and administrators of him the said *Augustus Hamet* shall and will pay, or cause to be paid to the said *Joseph Jones*, or to such person or persons as shall, with the consent of all parties, take and accept the said *James Jones*, as his or their clerk, for the residue of the said term, such sum and sums of monies, and at such times as are hereinafter mentioned; that is to say, that in case the said *Augustus Hamet* shall die before the expiration of the first year of the said term, then the executors or administrators of the said *Augustus Hamet* shall within one month next thereafter pay or cause to be paid the sum of one hundred and seventy pounds in manner aforesaid; and if before the expiration of the second year, the sum of one hundred and fifty pounds; and if before the expiration of the third year, the sum of one hundred and thirty pounds; and if before the expiration of the fourth year, the sum of one hundred and ten pounds; and if before the expiration of the fifth year, the sum of ninety pounds, according to the true intent and meaning of these presents, any thing herein mentioned to the contrary thereof in any wise notwithstanding. And for the true performance of all and singular the respective covenants and agreements above mentioned, they the said *Joseph Jones* and *Augustus Hamet*, do bind themselves and their several heirs, executors, and administrators, each to the other of them in the penal sum of one hundred pounds of good and lawful money of *Great-Britain*, firmly by these presents. In witness whereof the said

Appendix.—ARTICLES.

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parties have to these presents interchangeably set their hands and seals, the day and year first above written.

Augustus Hamet (Seal.)

Joseph Jones (Seal.)

James Jones (Seal.)

Sealed and delivered by all the Parties
in the presence of

Isaac Bidulph,
John Pitts, } Clerks to Mr. Hamet.

4. *Indentures of Apprenticeship to a Seaman or Mariner.*

THIS Indenture, made the twenty-ninth day of August, in the year of our Lord, one thousand seven hundred and ninety-four, between *Andrew Johnson* of *Limehouse*, in the county of *Surry*, Tallowchandler, of the first part, *Peter Johnson* son of the said *Andrew*, of the second part, and *Christopher Meritone*, captain of the ship *Caroline* of the third part, witnesseth, that the said *Peter Johnson* doth with the consent, and by the direction of the said *Andrew Johnson* his father, bind himself apprentice unto the said *Christopher Meritone*, as an apprentice to serve him the said *Christopher*, in the navigation of any ship or vessel which the said *Christopher* shall order and appoint, for the full space and term of four years from henceforth fully to be complete and ended; during which said term the said apprentice shall and will faithfully serve the said *Christopher*, and do and perform all such service and business, as well at sea on board any ships or vessels which shall belong or be employed in the service of the said *Christopher*, and with and under such person and persons as he shall from time to time order and appoint or otherwise as the occasions of the said *Christopher* shall require; and shall and will obey all lawful commands of his said master, or such other person or persons with whom he

shall from time to time order him to serve, and go in any ship or vessel he shall be by his said master commanded to go, and shall diligently and carefully demean and behave himself towards him and them in all respects. And that he the said apprentice shall not do or willingly suffer to be done by others any hurt, prejudice, or damage to the goods, merchandizes, or other affairs of his said master or any other with whom he shall be appointed to serve as aforesaid, but the same to the utmost of his power shall hinder, or him or them thereof shall forthwith warn; he shall not absent himself from the said service by day or night unlawfully; but in all things as a good and faithful apprentice he shall bear and behave himself towards his said master, and such person and persons with whom he shall be ordered from time to time to serve as aforesaid during the said term; and the said master his said apprentice shall and will cause to be taught and instructed in the art or business of a sailor so far as shall be necessary, as to the voyages in which he shall be employed; and shall and will find and provide unto and for his said apprentice sufficient meat, drink, lodging and cloathing, during all the said term. In witness whereof the said parties hereto have hereunto set their hands and seals, the day and year first above written.

Andrew Johnson (Seal.)

P. Johnson (Seal.)

C. Meritone (Seal.)

Sealed and delivered in
the presence of us,

C. B. of Ec.

C. D. of Ec.

5. Condition of a Bond that an Apprentice shall perform his Articles.

WHEREAS by indenture of apprenticeship, bearing date the thirteenth of June now last past, *James Rowen* the younger, one of the sons of the above bounden *James Rowen* the elder, is become bound as an apprentice to the said *Benjamin Bown*, in the trade, art, or employment of a Hosier, for the term or space of seven years from the day of the date thereof, as by the same indentures may appear, Now the condition of the above written obligation is such, that if the said *James Rowen* the son shall and do from time to time, and at all times during his said apprenticeship, well and truly observe, perform, fulfil, and keep all and every the articles, covenants, clauses, and agreements whatsoever, in the said recited indentures contained, and which on his part are to be observed, performed, fulfilled, and kept, and shall and do from time to time and at all times during the said term, be faithful and just to the said *Benjamin Bown*, his executors, administrators, and assigns, in all his the said *James Rowen* the son's buyings, sellings, accounts, reckonings, receipts, payments, and all other his doings and dealings, any wise relating to the said trade or employment, or the affairs or business of the same, and in all other matters and things wherein as an apprentice or servant he shall or may be employed by or concerned, for or on the behalf of the said *Benjamin Bown*, his executors, administrators, or assigns, then this present obligation to be void, and of none effect, else to remain in full force and virtue. As witness my hand, the day and year first above written.

James Rowen, sen. (Seal.)

Scaled and delivered in
the presence of

Paul Piles, of Rathbone-place, Middlesex.

6. *A Clause in Articles of Clerkship empowering the Master to assign.*

PROVIDED always, and it is hereby mutually declared and agreed, by and between the said parties hereto, that it shall and may be lawful, notwithstanding these presents, to and for the said *James Pennu*, at any time during the said term of six years, to assign or turn over unto any other sworn attorney or solicitor, or attorneys and solicitors of any of his Majesty's courts at *Westminster*, the service and benefit of the clerkship of him the said *Robert Clotbier* for all or any part of the said term, then to come, in such manner as he the said *James Pennu* shall think fit, subject nevertheless to the same covenants and articles, for instruction, allowance, board, and lodging, as are contained in these presents.

No. II. *DISCHARGES.*

1. *A Discharge of an Apprentice from his Indentures.*

TO all to whom these presents shall come, *John Norton* of *Westminster*, in the county of *Middlesex*, Gent. sends greeting. Whereas *Charles Dod*, son of *Edward Dod*, of *Mile-end*, in the said county, did by his indenture of apprenticeship, bearing date on or about the tenth of May, one thousand seven hundred and ninety-four, put himself apprentice unto *Ralph Bertie*, of *London*, for the term of five years from the date thereof, as by the said indenture may appear; and whereas the said *Charles Dod* was afterwards turned over or assigned to *George Hammond*, of *Swansea*, as by an indorsement on the said indenture may also appear. And whereas differences arose between the said *George Hammond* and *Ralph Bertie*, and the same were referred and submitted to the judgment and determination of *Henry Willet*, who, upon hearing the said matters has adjudged and ordered that the said *George Hammond* shall

return and pay back the sum of thirty pounds to the said *Edward Dod* the father, and thereupon the said indentures of apprenticeship to be delivered up by each party, and cancelled. And whereas in pursuance of the said award, or order, the said *George Hammond* hath paid back the said sum of thirty pounds, and the said indentures have been delivered up and cancelled; (*but if there has been no arbitration, say*) (And whereas the said *George Hammond* at the request of the said *Edward Dod* the father, and *Charles Dod* the apprentice, hath discharged the said *Charles Dod* from his service, and the said indentures are delivered up by the said parties and cancelled.) Now therefore know ye that the said *George Hammond* hath remised, released, and for ever discharged, and by these presents doth for himself, his executors, and administrators, remise, release, and for ever discharge the said *Edward* and *Charles Dod* of and from the said indentures of apprenticeship, and a'l service and other matters and things in the said indentures contained, on their or either of their parts to be performed, and of and from all actions and causes of actions, suits, specialties, covenants, agreements, clauses, and demands whatsoever, for or concerning the said indentures of apprenticeship, or by reason of any other matter or thing whatsoever, from the beginning of the world to the day of the date hereof. In witness whereof he the said *George Hammond*, *Edward Dod*, and *Charles Dod*, have hereunto set their hands and seals, the day and year first above written.

George Hammond (Seal.)

Edward Dod (Seal.)

Charles Dod (Seal.)

Witness,

Ralph Tomins.

James Newstead.

2. *A Clause in Indentures of Apprenticeship empowering the Master to discharge the Apprentice for Misbehaviour.*

AND lastly it is agreed by and between the said parties hereto, that if the said *William Rose* shall for any considerable space of time during the said term, be wilfully disobedient to the lawful orders or commands of the said *James Carleton*, his master, or be slothful or negligent, or shall otherwise grossly misbehave himself towards his said master or his family, that then in such case it shall and may be lawful for the said *James Carleton* to put away and discharge the said *William Rose* from his said service; and in such case the said *James Carleton*, his executors, administrators, or assigns, shall repay unto *Thomas Rose*, (the father of the said *William Rose*) the like sum of money as is hereby made payable upon the death of the said *James Carleton*, according to the period of the said term of service at which he shall so put away the said *William Rose*; any thing herein before contained to the contrary thereof in any wise notwithstanding.

No. III. AGREEMENTS.

1. *An Agreement between a Master and a Servant, or Bailiff, relative to the Management of a Farm.*

ARTICLES of agreement indented, made, entered into, and concluded upon this tenth day of January, in the thirty-fifth year of the reign of our sovereign Lord George the third, and in the year of our Lord Christ, 1795, between *Thomas Sampson* of *Whitburn*, in the county of *Dorset*, esq. of the one part, and *Samuel Fowler* of *Minton*, in the same county, yeoman, of the other part, as follows: that is to say, WHEREAS the said *Thomas Sampson* hath agreed with the

said *Samuel Fowler* to be his servant or agent, for the purpose of ordering and managing to the best advantage, all that messuage or tenement and farm, barns, stables, outhouses, lands, meadows, and pasture grounds, with the several appurtenances thereunto belonging, now in the tenure and occupation of the said *Thomas Sampson*, situate, lying, and being in the parish of *Whitbourne* aforesaid, and commonly called or known by the name of *Sampson Farm*, for and during the term of one whole year, to commence from the fifth day of the present month, being Christmas-Day old stile, and so from year to year as long as the said *Thomas Sampson* and *Samuel Fowler* shall agree, to and for the yearly sum, salary or wages of 100*l.* payable quarterly as hereafter is mentioned. Now it is hereby covenanted, granted, concluded, and agreed upon by and between the said *Thomas Sampson* and *Samuel Fowler*, as well for themselves as for their several executors, administrators, and assigns, by these presents, in manner and form following; (that is to say) The said *Samuel Fowler*, for himself, his executors, and administrators, doth covenant, promise, and agree to and with the said *Thomas Sampson*, his executors, administrators, and assigns, that he the said *Samuel Fowler* shall and will at all times and seasons during the said term of one year, and so long after as the said parties shall agree as aforesaid, order, manage, cultivate and improve, according to the best of his abilities, skill, and knowledge, all and singular the lands, meadows, arable and pasture grounds; and also all and singular the cattle, stock, outhouses, buildings, and appurtenances belonging to, and now, or any time hereafter, being upon the said farm and premises called *Sampson Farm*, situate as aforesaid, to the greatest benefit and advantage in all things and respects of him the said *Thomas Sampson*, his executors, administrators, and assigns. IN CONSIDERATION of which said promise and agreement, and other the premises aforesaid, he the said *Thomas Sampson*, for himself, his executors, administrators, and assigns, doth covenant, grant, and agree to and with the said *Samuel Fowler*, his executors and administrators, by these presents, that he the said *Thomas Sampson*, his executors, administrators, or assigns, shall and will well and truly pay or cause to be paid unto the said *Samuel Fowler*, his executors, administrators, or assigns, the said

Agreements
and covenants

From the ser-
vant

From the mas-
ter

Masters and Servants.

yearly sum, salary, or wages, of one hundred pounds of lawful money of Great Britain, during so long as the said *Samuel Fowler* shall continue to manage the said farm and premises for the said *Thomas Sampson*, in pursuance of these presents, the same to be payable and paid, or otherwise by the said *Samuel Fowler* retained out of the monies in his hands, on the four most usual quarterly days of payment of rent or feast days in the year, that is to say, on the fifth day of April, the fourth day of June, the tenth day of October, and the fifth day of January, in every year, by even, and equal portions. In witness whereof the said parties have hereunto set their hands and seals, the day and year first above written.

Thomas Sampson (Seal.)

Samuel Fowler (Seal.)

Scaled and delivered in
the presence of us,

Charles Minington, } of *Whitbourne* aforesaid.
Paul Jenkins,

2. *An Agreement between a Master and a menial Servant.*

Covenants from
the servant

ARTICLES of agreement indented, made, concluded, and agreed upon this first day of July, in the year of our Lord one thousand seven hundred and ninety-two, between *William Styles*, of, &c. of the one part, and *Walcot Man*, of, &c. of the other part, as follows: viz. The said *Walcot Man* for the considerations hereunder mentioned, doth covenant, promise, and agree to and with the said *William Styles*, his executors, administrators, and assigns, by these presents in manner following: (that is to say) that he the said *Walcot Man*, shall and will for and during the term and time of five years, to begin and be accounted from the date of these presents, serve, abide, and continue with the said *William Styles*,

his executors, administrators, and assigns, as his and their covenant servant, and diligently and faithfully according to the best and utmost of his power, skill, and knowledge, will exercise and employ himself in, and do and perform, all such service and business whatsoever, as well relating to the trade of a Tanner, which the said *William Styles* now useth, as in and about such other business, matters, and things whatsoever, as the said *William Styles*, his executors or administrators, shall from time to time order, direct, and appoint, and that to and for the best profit and advantage of him and them; and that he shall and will keep to himself, and in no wise divulge the secrets of the said *William Styles*, his executors or administrators, relating to the said trade and business, and likewise be just, true, and faithful to him and them, in all matters and things, and no ways wrongfully detain, embezzle, or purloin any monies, goods, or things whatsoever, to him or them belonging, and also shall and will keep just, true, and faithful accounts of all goods bought and sold, monies received and paid, and of all other things whatsoever, relating to the business aforesaid, as shall come to be committed to his care, management, or disposal, and from time to time pay all monies which he shall receive of, or belonging to, or by order of, the said *William Styles*, his executors or administrators, and make and give up true and fair accounts of all his doings and doings in the said employments, without fraud or delay, when and as often as he shall be thereto required; and in consideration of the premises, and of the several matters and things by the said *Walcot Man* to be performed as aforesaid, the said *William Styles* doth for himself, his executors, and administrators, covenant, promise, and agree to and with the said *Walcot Man*, his executors and administrators, by these presents, that he the said *William Styles*, his executors and administrators, shall and will find and provide unto and for the said *Walcot Man*, in his dwelling-house, meat, drink, washing and lodging; and also well and truly pay or cause to be paid unto the said *Walcot Man*, his executors and administrators, or assigns, the sum of twenty pounds a year of lawful money of Great-Britain for the first two years of the said term, by equal quarterly payments, and shall and will allow the said *Walcot Man* all such charges and expences in

Covenant from
the master

Mutual cove-
nant

and about the business aforesaid, as shall be just and reasonable; and the said parties do mutually covenant and agree to and with the other, that if the said *William Styles* shall not be willing to continue the said *Walcot Man* in his service after the expiration of two years of the said term, or if the said *Walcot Man* shall not be willing to serve and continue with the said *William Styles* after the expiration of the said two years, in either of the said cases, the said parties shall and will give six months notice of such their minds and intention before the expiration of the said term, and they shall respectively be at liberty on the one hand to part with, and on the other to depart; any thing in these presents contained to the contrary notwithstanding. As witness our hands this third day of May, one thousand seven hundred and ninety-four.

William Styles (Seal.)

Walcot Man (Seal.)

Sealed and delivered in
the presence of

Cumings Bennet, Servant to William Styles.

No. IV. ASSIGNMENTS.

1. An Assignment of an Apprentice.

TO all to whom these presents shall come, I *Robert Carter* of *London*, send greeting. Whereas my apprentice, *Andrew Baker*, has certain years yet to come and unexpired of his apprenticeship, to wit, three whole years from Lady Day last, as by his indenture of apprenticeship, bearing date on or about the fifteenth day of March, one thousand seven hundred and ninety-one, doth appear. Now know ye, that I the said *Robert Carter*, for divers good causes and considerations me hereunto moving, have given, granted, assigned, and set over, and by these presents do fully and absolutely give, grant, assign, and set over unto *Francis Jay*, of *Royston, Cambridgeshire*, all right, title, duty, term of years to come, service, and de-

mand whatsoever, which I the said *Robert Carter* have in or to the said *Andrew Baker*, or which I may or ought to have in him by force and virtue of the said indenture of apprenticeship. And moreover, I the said *Robert Carter*, do by these presents covenant with the said *Francis Jay*, his executors, and administrators, that notwithstanding any thing by me the said *Robert Carter* done or to be done to the contrary, the said *Andrew Baker* shall during the said term of three years well and truly serve the said *Francis Jay* as his master, and his commandments lawful and honest shall do, and from his service shall not absent himself day or night during the term aforesaid. Provided that the said *Francis Jay* shall well treat and use the said *Andrew Baker*, finding for him meat, drink, linen, woollen, hose, shoes, and bedding, and all other necessities during the said term. In witness whereof the said parties have hereunto set their hands and seals, the day and year first above written.

Robert Carter (Seal.)

Francis Jay (Seal.)

Sealed and delivered in
the presence of

Baker Joyce, King street, Bloomsbury.

Jer. Fife, Fisher-street, Red Lion-square.

2. *An Assignment of Indentures of Apprenticeship by the Executor of a deceased Master.*

THIS indenture, made the tenth day of May, in the year of our Lord one thousand seven hundred and eighty-seven, between *Caleb Joseph*, of *Vintage-street*, in the city of *Gloucester*, Linen-Draper, executor of the last will and testament of *David Roberts*, late of the same place, Haberdasher, deceased, of the 1st part, *Charles Dunning*, of *London*, Gent. and *Benjamin Dunning* his son, of the 2d part, and *Peter*

Recital of former articles:

Recital of master's death

And of his will

Assignment

Covenant from assignor

Thomas, of *Wiley-street*, in the city of *Gloucester* aforesaid, of the third part. Whereas the said *Benjamin Dunning* did of his own free will, by and with the advice and consent of the said *Charles Dunning* his father, by certain indentures of apprenticeship, bearing date on or about the twelfth day of February, which was in the year of our Lord, one thousand seven hundred and eighty-tree, put and bind himself apprentice to the said *David Roberts*, to be taught and instructed in the art, trade, or business of a *Brazier*, which the said *David Roberts* then used; and to serve the said *David Roberts* after the manner of an apprentice from thenceforth, for and during and unto the full end and term of seven years from thence next ensuing, and fully to be complete and ended, as in and by the said indentures may, reference being thereto had, more fully appear. And whereas the said *David Roberts* departed this life on or about the eighteenth day of July last past, having first duly made and published his last will and testament in writing, and thereby appointed the said *Caleb Joseph* sole executor thereof, as in and by the said will may appear. And whereas the said *Benjamin Dunning*, at the time of the death of his said master, had served four years and upwards of his said term of seven years, for which he was bound as aforesaid. Now this indenture witnesseth, that in order that the said *Benjamin Dunning* may serve out the remainder and full term of his said apprenticeship, and be fully taught in the said art, trade, or business of a *Brazier*, according to the purport and intent of the said recited indenture. He the said *Caleb Joseph*, at the request of the said *Benjamin Dunning*, and by and with the advice and approbation of the said *Charles Dunning* his father, testified by their being parties to, and sealing and delivering these presents, hath, and by these presents doth fully and absolutely grant, assign, and set over unto *Peter Thomas*, of *Wiley-street*, in the said city of *Gloucester*, *Brazier*, all the right, title, interest, duty, service, term of years, and demand whatsoever, which he the said *Caleb Joseph* hath, or can or may lawfully have in or to the said *Benjamin Dunning*, under or by force or virtue of the said recited indenture of apprenticeship, as being executor of the said *David Roberts*, deceased, or otherwise howsoever. AND MOREOVER the said *Caleb Joseph* doth by these presents cove-

nant, promise, and agree to and with the said *Peter Thomas*, his executors, administrators, and assigns, that notwithstanding any matter or thing by him the said *Caleb Joseph* already done or hereafter to be done to the contrary, the said *Benjamin Dunning* shall and will well and truly serve the said *Peter Thomas* as an apprentice for and during the term of three years from the date hereof, being the remainder now to come and unexpired of the aforesaid term of seven years, and do and perform all his lawful commands during the said term; he the said *Charles Dunning* finding and providing for the said *Benjamin Dunning* his son, sufficient wearing apparel of all sorts fitting for such an apprentice. AND the said *Peter Thomas*, for himself, his executors, and administrators, doth hereby covenant, promise, grant, and agree to and with the said *Charles Dunning*, his executors, and administrators, that he the said *Peter Thomas* shall not only sufficiently teach and instruct, or cause to be taught and instructed to the best of his abilities and skill, his said apprentice in the said art, trade, or business of a Brazier, which he now uses, but also shall and will find and provide for him meat, drink, washing, and lodging, meet and convenient for such apprentice during all the said term of three years residue and remainder of the said term of seven years as aforesaid. In witness whereof the said parties have hereunto set their hands and seals, the day and year first above written.

Covenant from
assignee

Caleb Joseph (Seal.)

Charles Dunning (Seal.)

Benjamin Dunning (Seal.)

Peter Thomas (Seal.)

Sealed and delivered in
the presence of

Miles Bennet, Wiley-street, aforesaid.

3. An Assignment of Articles of Clerkship.

Recital of former articles.

THIS indenture, made the nineteenth day of April, in the thirty-fourth year of our sovereign lord *George* the third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. and in the year of our Lord Christ, one thousand seven hundred and ninety-four, between *George Ponurst*, of *Wilbraham*, in the county of *Dorset*, Gent. of the first part, *Edward Sillington*, of *Marlborough*, in the county of *Devonshire*, Gent. of the second part, *Joseph Sillington*, relative of the said *Edward Sillington*, of the third part, and *Philip Pemberton*, of *Reading*, in the county of *Berks*, Gent. of the fourth part. WHEREAS by articles of agreement indented, bearing date on or about the eighteenth day of November, which was in the year of our Lord, one thousand seven hundred and ninety-two, and made or mentioned to be made, between the said *Edward Sillington* of the first part, the said *Joseph Sillington* of the second part, and *George Ponurst*, therein described to be of *Wilborough*, in the county of *Somerset*, Gent. of the third part, the said *Edward Sillington* did covenant that the said *Joseph Sillington* should serve the said *George Ponurst* as his clerk, for the term of five years from thence next ensuing, and the said *George Ponurst* did for the considerations therein mentioned, thereby covenant with the said *Edward Sillington*, that he would find and provide the said *Joseph Sillington* during the said term sufficient meat, drink, washing and lodging, and also inform and instruct him in the profession, business, and practice of an attorney and solicitor in his Majesty's courts at *Westminster*, as and by the same articles on reference being thereto had will more fully appear. And whereas the said *Joseph Sillington* has served with the said *George Ponurst* two years of his said clerkship, and it has been agreed between the parties to the said recited indenture, that he shall now be assigned for the remainder of the said term of five years unto the said *Philip Pemberton*. Now this indenture witnesseth, that in consideration of the co-

tenants and agreements hereafter mentioned, and other considerations the said parties thereunto moving, the said *George Ponurst* hath, and by these presents doth, at the request, by the direction, and with the approbation, as well of the said *Edward Sillington* as of the said *Joseph Sillington*, assign, transfer, and set over unto the said *Philip Pemberton*, his executors and administrators, as well the said recited articles, and all benefit and advantage whatsoever, to be had therefrom or thereof made; and also all and all manner of interest, property, profit, advantage, claim, and demand whatsoever, of the service of him the said *Joseph Sillington*, during the residue and remainder now to come of the aforesaid term of five years, by force, virtue, or means of the said recited articles, or otherwise howsoever. AND the said *Philip Pemberton* doth hereby for himself, his executors, and administrators, covenant, promise, and agree to and with the said *Edward Sillington*, and also to and with the said *Joseph Sillington*, their respective executors and administrators, in manner following: that is to say, that he the said *Philip Pemberton* shall and will at all times during the remainder of the said term of five years, instruct and inform in the best manner in his power the said *Joseph Sillington*, as his clerk, in the business or profession and practice of an attorney and solicitor in his Majesty's courts at *Westminster*, and all other courts which he the said *Philip Pemberton* now useth, or shall at any time during the said term use or practise, and in all the modes, methods and reasons thereof. And further, that he the said *Philip Pemberton*, his executors, administrators, or assigns, shall and will from henceforth, at his and their charge, find, allow, and provide the said *Joseph Sillington* competent and sufficient meat, drink, washing, and lodging, during all the residue now to come of the said term of five years; and thereof and therefrom save, keep harmless, and indemnified, as well the said *George Ponurst*, as also the said *Edward Sillington*, their respective executors and administrators. And also that he the said *Philip Pemberton*, his executors, administrators, or assigns, shall and will well and truly pay to the said *Joseph Sillington*, during the last two years of the said term of five years, the annual sum of twenty pounds, clear of all deductions and abatements whatsoever, for and

Covenant to
procure clerk's
admission.

towards his travelling and other expences, and for finding him in cloaths and other necessaries; the said sum of twenty pounds to be paid to the said *Joseph Sillington* by even half yearly payments, at Lady Day and Michaelmas in every year. And lastly, each of them the said *George Ponurst* and *Philip Pemberton*, doth hereby for himself severally covenant with the said *Edward Sillington*, that they the said *George Ponurst* and *Philip Pemberton*, at the request, costs, and charges of the said *Edward Sillington*, at any time after the expiration of the said term of five years, shall and will make several affidavits of the respective times of service of him the said *Joseph Sillington*, with them the said *George Ponurst* and *Philip Pemberton*, and also do every other lawful act for the getting him the said *Joseph Sillington* to be admitted as an attorney, in either of his Majesty's courts at *Westminster*, as shall be needful and requisite for that purpose. In witness whereof they the said parties have hereunto respectively set their hands and seals, the day and year first above written,

George Ponurst (Seal.)

Edward Sillington (Seal.)

Joseph Sillington (Seal.)

Philip Pemberton (Seal.)

Sealed and delivered in
the presence of

Tim. Mellish, } of Reading aforesaid.
Fav. Riley, }

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- Page 11. note (*b*) instead of 1 *Hale H. C. L.* read 1 *Hale P. C.*
28. instead of 2 & 3 *Ann. c. 16.* read 2 & 3 *Ann. c. 6.*
29. line 7. instead of 4 *Eliz.* read 5 *Eliz.*

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